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THE DEFENCE

OF

PROFESSOR BRIGGS

BEFORE THE

GENERAL ASSEMBLY

THE CASE AGAINST

PROFESSOR BRIGGS

PART III.

I. The Appeal of the so-called Prosecuting Committee to the General Assembly of the Presbyterian Church in the United States of America, January 18, 1893.

II. The Argument of Professor Briggs before the General Assembly against Entertaining the Appeal, May 24 and 25, 1893.

III. The Entertainment of the Appeal, May 26, 1893.

IV. The Argument of Professor Briggs before the General Assembly against Sustaining the Appeal, May 29 and 30, 1893.

V. The Action of the General Assembly in Sustaining the Appeal, May 31, 1893, and the Final Judgment of the General Assembly, June 1, 1893.

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I.

THE APPEAL TO THE GENERAL ASSEMBLY.

NEW YORK, January 18th, 1893.

To the Venerable the General Assembly of the Presbyterian Church in the United States of America, Greeting:

The Presbyterian Church in the United States of America, represented by the undersigned Prosecuting Committee, in the case of the said Presbyterian Church against the Rev. Charles A. Briggs, D.D., presents the following Appeal from the final judgment in this case, rendered by the Presbytery of New York on the ninth day of January, 1893, with the grounds therefor, and the specifications of the errors alleged. Believing that the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church, by reason of the dangerous errors alleged to be contained in the Address of the said Dr. Briggs at his inauguration as Professor of Biblical Theology in Union Theological Seminary, delivered on the 20th day of January, 1891, upon which Inaugural Address charges and specifications were tabled, and prosecution, in compliance with Sections 10 and 11 of the Book of Discipline, was initiated by the Presbytery of New York in the name of the Presbyterian Church in the United States of America; and believing that the distinct and definite condemnation of

those alleged errors, by the Supreme Judicatory of the said Presbyterian Church, is necessary in order to prevent their spread and influence in the denomination; and, while having the highest respect for the Synod of New York, believing that a special responsibility rests upon the General Assembly, which is charged with the duty of deciding in all controversies respecting doctrine; of reproving, warning or bearing testimony against error in doctrine in any Church, Presbytery, or Synod, and in cases that affect or concern the promotion of truth and holiness through all the Churches under its care, as set forth in Chapter XII., Sections IV. and V., of the Form of Government; and in view of the desirableness of the speediest settlement of this most important case, do hereby appeal to and request your Venerable Body to enter immediately upon the consideration and judicial investigation of the appeal hereby presented, to issue the case, and to finally determine the important questions involved, so as to secure the purity and the peace of the Church at the earliest possible day.

In the further prosecution of the case on the part of the said Presbyterian Church, the Appellant, represented by the said Prosecuting Committee, respectfully sets forth:

That on the thirteenth day of April, A.D. 1891, the Presbytery of New York appointed a Committee to consider the Inaugural Address of the Rev. Charles A. Briggs, D.D., in its relation to the Confession of Faith, and that on May eleventh, A.D. 1891, the said Committee presented to said Presbytery a report which was accepted, and its recommendation, "that the Presbytery enter at once upon the judicial investigation of the case," was adopted by the said Presbytery, and thereupon it was "*Resolved*, That a Committee be appointed to arrange

and prepare the necessary proceedings appropriate in the case of Dr. Briggs"; and the Rev. G. W. F. Birch, D.D., Rev. Joseph J. Lampe, D.D., Rev. Robert F. Sample, D.D., and Ruling Elders John J. Stevenson and John J. McCook, were appointed such Committee in conformity with the provisions of Section 11 of the Book of Discipline.

That after the initiation of the prosecution by the said Judicatory, the Presbytery of New York, as above recited, the said Prosecuting Committee entered upon its duties.

That as said prosecution was initiated by a Judicatory, and not by individual prosecutors, in compliance with the provisions of Section 10 of the Book of Discipline, the Presbyterian Church in the United States of America became the prosecutor, and an original party in the case, and was represented by the said Prosecuting Committee, which said Committee, under Section 11 of the Book of Discipline, was charged with the duty of conducting the prosecution in all its stages in whatever Judicatory, until the final issue be reached.

That at the meeting of said Presbytery, held on the fifth day of October, A.D. 1891, the said Prosecuting Committee presented charges and specifications in the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., which were read in the presence of the Judicatory, and were then served by the Moderator upon the said Rev. Charles A. Briggs, D.D., together with a citation, citing him to appear and plead to the said charges and specifications at a meeting of the said Presbytery, to be held on November fourth, A.D. 1891.

That after said charges and specifications had been presented to the said Presbytery and had been read, the

Presbytery entertained a motion made by the Rev. George Alexander, D.D., to arrest the judicial proceedings and to discharge the Prosecuting Committee from further consideration of the case, as follows:

"*Whereas*, the Presbytery of New York, at its meeting in May last, on account of utterances contained in an inaugural address delivered January 20th, 1891, appointed a Committee to formulate charges against the author of that address, Rev. Charles A. Briggs, D.D., and whereas, since that action was taken, the accused has supplemented those utterances by responding to certain categorical questions. * * *

"*Therefore, Resolved*, that Presbytery, without pronouncing on the sufficiency of these later declarations to cover all the points concerning which the accused has been called in question, with hearty appreciation of the faithful labors of the Committee, deems it expedient to arrest the judicial proceedings at this point, and hereby discharges the Committee from further consideration of the case."

On the aforesaid motion to dismiss the case, as expressed specifically in the words "to arrest the judicial proceedings" and "hereby discharges the Committee from further consideration of the case," the Presbytery by a yea and nay vote refused to adopt the above resolution and to dismiss the case.

That on the said fifth day of October, A.D. 1891, the said Presbytery adjourned to meet on the fourth day of November, A.D. 1891, the day upon which the said citation was made returnable, and that at said meeting on the fourth day of November, A.D. 1891, the said Presbytery was charged as a Judicatory in accordance with Rule XL. of General Rules for Judicatories, and thereupon the said Presbytery proceeded in the case of the

Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., and the said Dr. Briggs then presented a paper purporting to be objections to the sufficiency of the said charges and specifications in form and legal effect; that said paper was largely an answer to said charges or an argument upon the merits of the case, and was denominated by the said Dr. Briggs himself, a "Response to the Charges and Specifications submitted to the Presbytery of New York, by Prof. Charles Augustus Briggs, D.D.," and that the said Presbytery thereupon permitted members of the said Presbytery to discuss the merits of the main question on behalf of the accused before and without permitting the Prosecuting Committee to be heard on the merits of the case.

That a question as to the status of the Prosecuting Committee was raised, and the Moderator decided that the Committee was properly a Committee of Prosecution in view of the previous action of the Presbytery, and was in the house as an original party under the provisions of Section 10 of the Book of Discipline. That an appeal was taken from the decision of the Moderator, the question was divided, and the Moderator was sustained in the point, that the Committee was in the house as a properly appointed Committee of Prosecution, and also sustained in the point that the Committee, as representing the Presbyterian Church in the United States of America, was an original party in the case.

That on said November fourth, A.D. 1891, the said Presbytery, after fully hearing Dr. Briggs' "Response to the Charges and Specifications," and without permitting the Prosecuting Committee to be heard on the merits of the case, upon the motion of the Rev. Henry Van Dyke, D.D., made and entered on its records its decision and

final judgment dismissing the said case in the following words, to wit:

"*Resolved*, that the Presbytery of New York, having listened to the paper of the Rev. Charles A. Briggs, D.D., in the case of the Presbyterian Church in the United States of America against him as to the sufficiency of the charges and specifications in form and legal effect; and without approving of the positions stated in his Inaugural Address, at the same time desiring earnestly the peace and quiet of the Church, and in view of the declarations made by Dr. Briggs touching his loyalty to the Holy Scriptures and the Westminster Standards, and of his disclaimers of interpretations put on some of his words, deems it best to dismiss the case, and hereby does so dismiss it."

From the aforesaid action of the said Presbytery of New York on the said fourth day of November, A.D. 1891, in dismissing the case, the Prosecuting Committee took an appeal in the name and on behalf of the said Presbyterian Church to the General Assembly of the Presbyterian Church in the United States of America, in accordance with the provisions of Sections 94 to 102, inclusive, of the Book of Discipline.

The said Appeal was made upon six different grounds, supported by twenty-five specifications of error, and together with the written notice of Appeal required by Section 96 of the Book of Discipline, was given to the Stated Clerk of the Presbytery of New York, and lodged with the Stated Clerk of the General Assembly, within the time required by Sections 96 and 97 of the Book of Discipline.

The Appeal, the Record and other documents in the case were referred to the Judicial Committee of the General Assembly of 1892 at Portland, Oregon, and the following action was had thereon:

"The Judicial Committee presented its report in the case of the Presbyterian Church in the U. S. of A. vs. Rev. Charles A. Briggs, D.D., which was accepted, as follows:

The Judicial Committee respectfully reports that it has carefully considered the documents submitted to it in this case, and adopted the following resolutions:

1. That, in the opinion of this Committee, the Appeal taken by the Presbyterian Church in the United States of America, an original party represented by the "Committee of Prosecution," appointed under Section 11 of the Book of Discipline, has been taken from the final judgment of the Presbytery in dismissing the case; and that the said Committee had the right to take this Appeal representing the said original party.

2. That it finds that the notice of the Appeal has been given, and that the Appeal, Specifications of Error, and Record have been filed in accordance with Sections 96 and 97 of the Book of Discipline, and the Appeal is in order.

3. That, in the judgment of the Committee, the Appeal should be entertained, and a time set apart for the hearing of the case.

In view of these considerations, the Committee reports that the Appeal is in order, and that the General Assembly should proceed, in accordance with the provisions of Section 99 of the Book of Discipline, by causing the judgment appealed from, the notice of Appeal, the Appeal and the specifications of the errors alleged, to be read; then to hear the appellant by the Committee of Prosecution; then the defendant in person, or by his counsel; then the appellant by the Committee of Prosecution in reply, upon the question, "Whether the Appeal shall be entertained?" (Minutes of General Assembly, 1892, page 90.)

The General Assembly was then constituted and charged, in accordance with Rule XL. of the General Rules for Judicatories, and during its sessions, on the 25th and 26th days of May, 1892, heard the Arguments of the Appellant and the Appellee upon the question whether the Appeal should or should not be entertained, the Assembly adopted the report of the Judicial Committee and the Appeal was entertained. (Minutes of General Assembly, 1892, pp. 118 and 119.)

Against this action of the Assembly, "in entertaining the Appeal of the Prosecuting Committee, * * * and so giving the Committee which preferred the Charges against Dr. Briggs, standing before the Assembly and right of Appeal as an original party," a protest was presented by the Rev. S. J. McPherson, D.D., and others, which protest was ordered to be entered on the Minutes of the Assembly without answer. (Minutes of General Assembly, 1892, pp. 153, 205.)

The Appeal, upon its merits, was then fully argued by the Appellant and the Appellee before the General Assembly, on May 28th, 1892 (Minutes of General Assembly, 1892, p. 140), and the provisions of Section 99 of the Book of Discipline having been fully complied with, each of the twenty-five specifications of error was sustained. The yeas and nays were ordered upon the question, "Shall the Appeal be sustained?" and 431 Commissioners voted to sustain the Appeal and 87 voted not to sustain. (Minutes of General Assembly, 1892, p. 141.)

On May 30th, 1892, the Committee appointed to draft a form of Judgment to be entered in the said case submitted its report and recommended the form of decree or order, which was adopted, (Minutes of the General Assembly, 1892, p. 152) and is as follows:

"THE PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA *vs.* REV. CHARLES A. BRIGGS, D.D.	Appeal from the judgment of the Presbytery of New York, dismissing the case.

"The General Assembly having, on the 28th day of May, 1892, duly sustained all the specifications of error alleged and set forth in the appeal and specifications in this case,

"It is now, May 30, 1892, ordered, that the judgment of the Presbytery of New York, entered November 4, 1891, dismissing the case of the Presbyterian Church in the United States of America against Rev. Charles A. Briggs, D.D., be, and the same is hereby, reversed. And the case is remanded to the Presbytery of New York for a new trial, with directions to the said Presbytery to proceed to pass upon and determine the sufficiency of the charges and specifications in form and legal effect, and to permit the Prosecuting Committee to amend the specifications or charges, not changing the general nature of the same, if, in the furtherance of justice, it be necessary to amend, so that the case may be brought to issue and tried on the merits thereof as speedily as may be practicable.

"And it is further ordered, that the Stated Clerk of the General Assembly return the record, and certify the proceedings had thereon, with the necessary papers relating thereto, to the Presbytery of New York."

This mandate of the General Assembly was received by the Stated Clerk of the Presbytery of New York and submitted to the Presbytery at its meeting held on the 13th day of June, 1892, when the Presbytery

"*Resolved*, That in the judgment of Presbytery, the issue of the case is impracticable during the Summer,

but will receive the attention of Presbytery on its reassembling in the Fall."

On the 9th day of November, 1892, the Presbytery of New York met, was constituted and charged, in accordance with Rule XL. of the General Rules for Judicatories. During the first day's session of the said Judicatory, in compliance with the said mandate of the General Assembly, and the provisions of Section 22 of the Book of Discipline, the said Judicatory permitted the Prosecuting Committee to amend the Charges and Specifications theretofore submitted in this case, and the Prosecuting Committee thereupon submitted amended Charges and Specifications. In the furtherance of justice, and with an earnest desire to fairly and fully meet and conform to the suggestions and objections raised by Dr. Briggs in his response to the original Charges and Specifications, so far as such objections were valid or well taken, the Prosecuting Committee, without departing from or changing the general nature of the original Charges, made such amendments as appeared to them to be necessary to secure clearness and certainty as to what was charged; also to prevent the Charges from covering more than one offence and to make the Specifications, and the proofs cited in support thereof, germane and pertinent to the Charges they were intended to sustain. The sessions of said Judicatory were continued with certain interruptions for a number of days, during which certain proceedings were taken as recorded in the minutes of said Judicatory, which minutes are hereby referred to as a part of the record of the proceedings in this case, which culminated in the decision and final Judgment from which this Appeal is taken.

On the 9th day of January, 1893, a committee consisting of the Rev. George Alexander, D.D., the Rev.

Henry Van Dyke, D.D., and Elder Robert Jaffray, appointed to bring in a minute to express the action of the said Judicatory, made its report, which was adopted by the Judicatory, and the said Presbytery, sitting in a judicial capacity, made and entered its decision and final judgment in this case, in the following words, to wit:

"The case of the Presbyterian Church in the United States of America against the Reverend Charles A. Briggs, D.D., having been dismissed by the Presbytery of New York on November 4, 1891, was remanded by the General Assembly of 1892 to the same Presbytery, with instructions that 'it be brought to issue and tried on the merits thereof as speedily as possible.'"

"In obedience to this mandate the Presbytery of New York has tried the case. It has listened to the evidence and argument of the Committee of Prosecution, acting in fidelity to the duty committed to them. It has heard the defense and evidence of the Rev. Charles A. Briggs, presented in accordance with the rights secured to every minister of the church.

"The Presbytery has kept in mind these established principles of our polity, 'that no man can rightly be convicted of heresy by inference or implication'; that 'in the interpretation of ambiguous expressions candor requires that a court should favor the accused by putting upon his words the more favorable rather than the less favorable construction,' and 'there are truths and forms with respect to which men of good character may differ.'

"Giving due consideration to the defendant's explanation of the language used in his Inaugural Address, accepting his frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations, crediting his affirmations of loyalty to the Standards of the church and to the Holy Scriptures as the only infallible rule of faith and practice, the Presby-

tery does not find that he has transgressed the limits of liberty allowed under our Constitution to scholarship and opinion.

"Therefore, without expressing approval of the critical or theological views embodied in the Inaugural Address or the manner in which they have been expressed and illustrated, the Presbytery pronounces the Rev. Charles A. Briggs, D.D., fully acquitted of the offences alleged against him, the several charges and specifications accepted for probation having been 'not sustained' by the following vote:

	SUSTAINED.			NOT SUSTAINED.		
	Ministers.	Elders.	Total.	Ministers.	Elders.	Total.
I. 1 Specification	41	17	58	55	15	70
I. 2 "	42	17	59	54	15	69
I. Charge *a*	42	17	59	54	15	69
I. Charge *b*	42	17	59	54	15	69
II. 1 Specification	39	16	55	56	16	72
II. 2 "	39	16	55	56	16	72
II. Charge *a*	39	16	55	56	16	72
II. Charge *b*	39	16	55	56	16	72
III. Specification	44	17	61	52	15	67
III. Charge *a*	44	17	61	52	15	67
III. Charge *b*	42	17	59	54	15	69
III. Charge *c*	44	17	61	52	15	67
IV. Specification	39	15	54	55	17	72
IV. Charge *a*	39	15	54	55	17	72
IV. Charge *b*	39	15	54	55	17	72
V. Specification	35	14	49	57	16	73
V. Charge *a*	35	14	49	57	16	73
V. Charge *b*	35	14	49	57	16	73
VI. Specification	41	16	57	55	14	69
VI. Charge	41	16	57	55	14	69

"Accordingly, the Presbytery, making full recognition of the ability, sincerity and patience with which the Committee of Prosecution have performed the onerous duty assigned them, does now, to the extent of its constitutional power, relieve said Committee from further responsibility in connection with this case. In so doing, the Presbytery is not undertaking to decide how far that Committee is subject to the authority of the body appointing it, but intends by this action to express an earnest conviction that the grave issues involved in this case will be more wisely and justly determined by calm investigation and fraternal discussion than by judicial arraignment and process.

"In view of the present disquietude in the Presbyterian Church, and of the obligation resting upon all Christians to walk in charity and to have tender concern for the consciences of their brethren, the Presbytery earnestly counsels its members to avoid on the one hand hasty or over-confident statement of private opinion on points concerning which profound and reverent students of God's word are not yet agreed, and, on the other hand, suspicions and charges of false teaching which are not clearly capable of proof.

"Moreover, the Presbytery advises and exhorts all subject to its authority to regard the many and great things in which we agree rather than the few and minor things in which we differ; and, turning from the paths of controversy, to devote their energies to the great and urgent work of the Church, which is the proclamation of the Gospel and the edifying of the Body of Christ."

From the aforesaid action, decision and final judgment of the said Presbytery of New York, sitting in a judicial capacity, taken on the ninth day of January, 1893, being the final judgment of the said Presbytery in

the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., in behalf of the Presbyterian Church in the United States of America, we, the undersigned, the Prosecuting Committee in the said case, do hereby appeal to your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, in accordance with the provisions of Sections 94 to 102, inclusive, of the Book of Discipline.

Under the provisions of Section IV. of Chapter XI. of the Form of Government of said Presbyterian Church, the decision of a Synod on an Appeal which affects the doctrine of the Church, is not final.

Section V. of Chapter XII. of the said Form of Government devolves upon the General Assembly "the power of deciding in all controversies respecting doctrine and discipline; of reproving, warning, or bearing testimony against error in doctrine * * * in any church, presbytery, or synod."

Section IV. of the same Chapter provides that "The General Assembly shall receive and issue all Appeals * * * that affect the doctrine or constitution of the Church, which may be regularly brought before them from the inferior judicatories."

Under these Sections of the Form of Government and Section 102 of the Book of Discipline, the Appeal from the former Judgment dismissing this case was taken by the Prosecuting Committee, in behalf of the said Presbyterian Church, directly from the Presbytery of New York to the General Assembly. The Supreme Court of the Church, after full discussion, assumed jurisdiction of the case, entertained the Appeal, and, after further full argument, sustained the same.

The General Assembly, in reversing the former Judg-

ment of the Presbytery, directed that the case should be tried upon its merits by the Presbytery of New York, and from the result of that trial it is proper that the Appeal should be made directly to the higher Judicatory, which has already entertained jurisdiction of the case.

The status of the Prosecuting Committee, as representing the Presbyterian Church in the United States of America, as an original party, under Sections 10 and 11 of the Book of Discipline, having been sustained by the General Assembly of 1892, the Committee is charged with conducting the prosecution in all its stages, in whatever Judicatory, until the final issue be reached.

The Prosecuting Committee cannot accept the decision of the Presbytery of New York as final, and not take an appeal therefrom, inasmuch as it would thereby assume the responsibility of acting for the entire Church and would surrender the Church's rights and the only opportunity of securing a final determination, by the General Assembly, of the questions at issue which involve most important and fundamental doctrines.

As the Book of Discipline, Section 96, provides that written Notice of Appeal, with the specifications of the errors alleged, shall be given within ten days after the Judgment has been rendered, the Prosecuting Committee must act promptly, and without being able to obtain in advance the instruction or wishes of the only body representing the entire Church, namely, the General Assembly.

If the action of the Committee in taking this Appeal does not commend itself to the court of last resort it need not be entertained, and the Appeal can be dismissed without prejudice to any interest.

Under ordinary conditions the Prosecuting Committee would have taken this Appeal to the Synod of New

York, but it does not appear to be best to do so in this exceptional case for the following reasons:

1. To secure the peace and quiet of the Church it is essential that a final determination of the fundamental and important questions involved should be reached by the Court of last resort at the earliest practicable date.

2. As this case involves doctrine, it must be finally determined by the General Assembly. The delay in reaching an ultimate decision through an appeal by way of the Synod could not be less than a year, during which the character of instruction given our candidates for the gospel ministry might be unfavorably affected. By securing the speedy decision of the Court of last resort in this case, neither the rights nor the interests of any individual would suffer.

3. If the Appeal should go to the Synod of New York and be passed upon by that Judicatory, when the case reaches the General Assembly by appeal from the decision of the Synod, all of the Presbyteries constituting that Synod would be excluded from representation in the final determination of these important questions. If the Appeal goes directly to the Assembly, the Commissioners from only one Presbytery in the entire Church would be excluded from sitting, deliberating and voting in the final decision. In the Synod of New York there are thirty-two Presbyteries, nearly fifteen per cent. of the whole number of Presbyteries in the Church. Inasmuch as all these Presbyteries, excepting one, would be fully represented and heard in the General Assembly, and the General Assembly alone can give a final decision, we believe the time and the interests of the Synod of New York will be best conserved if the Assembly should entertain the Appeal according to the Committee's request. This important consideration of having these questions

finally determined by the representatives of substantially the entire Church, apart from the other reasons above mentioned, would seem to require, in the interest of fairness and justice to all concerned, that the Prosecuting Committee should take an Appeal directly to the General Assembly, and that the General Assembly should entertain said Appeal.

The grounds of this Appeal are as follows:

First Ground of Appeal.

Irregularity in the Proceedings of said Presbytery of New York.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that in consideration of objections offered by the accused the Presbytery of New York, sitting in a judicial capacity, required the Prosecuting Committee to amend the Amended Charges and Specifications submitted to said Presbytery on the 9th day of November, 1892, by striking out Charge IV., said Charge IV. being in substance an essential part of the original Charges and Specifications in the case sent down by the last General Assembly to the said Presbytery, with instructions that the said case be brought to issue and tried on the merits thereof.

SPECIFICATION SECOND.

In this, that in consideration of objections offered by the accused the said Presbytery required the said Prosecuting Committee to amend the Amended Charges and Specifications by striking out Charge VII., said Charge VII. being in substance an essential part of the original Charges and Specifications in the case sent down by the

last General Assembly to the said Presbytery, with instructions that the said case be brought to issue and tried on the merits thereof.

SPECIFICATION THIRD.

In this, that the said Presbytery, before proceeding to trial, directed the transference of the proofs cited by the Prosecuting Committee from the Scriptures, the Confession of Faith and the Catechisms, to sustain the several Specifications, from the Specifications to the Charges, by the following action, to wit: "Without sustaining the general objection to the relevancy of the proofs from the Scriptures, Catechisms and Confession, the Presbytery directs the transference of these proofs from the Specifications to the Charges."

SPECIFICATION FOURTH.

In this, that the Moderator of the Presbytery, the Rev. John C. Bliss, D.D., without submitting the question to the Judicatory, ruled that the Rev. Joseph J. Lampe, D.D., speaking as a member of the Prosecuting Committee, introduced new matter in his argument in reply to the argument of the accused, and without specifying the alleged new matter, the Presbytery, after the close of the argument of the said Rev. Joseph J. Lampe, D.D., on behalf of the Prosecuting Committee, took the following action, to wit:

"*Resolved*, That the Presbytery now give the defendant an opportunity to reply."

SPECIFICATION FIFTH.

In this, that by the ruling of the Moderator, referred to in Specification Fourth, the said Prosecuting Committee were refused the opportunity to close the case,

contrary to the practice and precedents in such cases in the Judicatories of the Presbyterian Church in the United States of America.

SPECIFICATION SIXTH.

In this, that, notwithstanding the fact that the said Dr. Briggs declined to be sworn as a witness when called upon, the said Presbytery accepted statements or explanations of the language used by the said accused, or disclaimers on the part of the said accused, and gave to said statements, explanations or disclaimers in the final judgment of the said Presbytery, the force of such sworn approbated and subscribed testimony, as is described or referred to in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SEVENTH.

In this, that there was placed upon or in the Official Stenographic Report of the proceedings of the said Judicatory, of December 5th, 1892, as furnished to the parties by the Stenographer, beginning at the last line on page 448 (erased page No. 461) to a point below the middle of page 468 (erased page No. 481), about twenty pages, which said twenty pages contain words and matter which were not spoken upon the floor of the Presbytery, and, as is stated by the Stenographer, were introduced into the Stenographic Report upon the request or suggestion of Prof. Briggs, with the approval of the Moderator, and after it had been announced to the Judicatory that both of the parties had fully presented their evidence, and after the argument of the Prosecuting Committee had been begun.

SPECIFICATION EIGHTH.

In this, that there was placed upon or in the Official Stenographic Report of the proceedings of the said Judi-

catory, beginning at page 468 of said Official Stenographic Report of the proceedings of the said Presbytery, held on Monday, December 5th, 1892, fifteen or more additional printed sheets, which said fifteen or more additional printed sheets contain words and matter which were not spoken upon the floor of the Presbytery, and were introduced by the Stenographer into the Official Stenographic Report of the proceedings, as said Stenographic Report of December 6, 1892, shows, (page 578), upon the request or suggestion of Prof. Briggs and by direction of the Moderator, and after it had been announced to the Judicatory that both of the parties had fully presented their evidence, and after the argument of the Prosecuting Committee had been begun.

SPECIFICATION NINTH.

In this, that the request of the Prosecuting Committee that such part of the Stenographic Report described and referred to in Specifications Seventh and Eighth as twenty pages and fifteen or more additional printed sheets, respectively, should be stricken out and that the accused should not be permitted to refer to or use any portion of such matter, or the books or documents therein referred to, as evidence upon the trial, was refused by the said Judicatory, and in this, that the record of said request was stricken from the Minutes of the said Presbytery. (See Records of the New York Presbytery, Vol. 14, pp. 395, 396.)

SPECIFICATION TENTH.

In this, that after the Prosecuting Committee had objected to the insertion into the Official Stenographer's Report of certain words and matter, said matter being upon about twenty pages of the Stenographer's notes,

and fifteen or more printed sheets being the pages and printed sheets referred to in Specifications Seventh and Eighth, which said words and matter were not spoken on the floor of the Presbytery, and after the said Prosecuting Committee had requested that the said twenty pages and the said fifteen or more printed sheets should be stricken out, and that the accused should not be permitted to refer to or to use any portion of such matter or the books or documents therein referred to, as evidence upon the trial, and in this, that the said Presbytery, while retaining as a part of the Stenographer's Report, the said twenty pages and the said fifteen or more printed sheets, voted to strike out of the Minutes the said record of the request of the said Prosecuting Committee.

SPECIFICATION ELEVENTH.

In this, that when the vote was taken on the said Charges and Specifications, the said Presbytery refused to permit any of the members of the said Judicatory to vote, to "Sustain in part," contrary to the precedents and practice of the judicial procedure of the Presbyterian Church in the United States of America.

SPECIFICATION TWELFTH.

In this, that the said Presbytery required that each item in Charges I., II., III., V., and VI. should be voted upon separately, thereby implying and proceeding upon the theory, which was not warranted by the facts, that each of said Charges contained more than one offence. (See Records of the New York Presbytery, Vol. 14, p. 368.)

Second Ground of Appeal.

receiving improper testimony.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that notwithstanding the fact that the said accused declined to be sworn as a witness when called upon, the said Presbytery accepted statements or explanations of the language used by the said accused or disclaimers on the part of the said accused and gave to said statements, explanations or disclaimers, in the final judgment of the said Presbytery, the force of such sworn, approbated and subscribed testimony as is described or referred to in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SECOND.

In this, that the Moderator, at the request of the said accused, instructed the Stenographer, as appears by page 578 of the Stenographer's Report of the proceedings of December 6th, 1892, to insert, beginning at the last line on page 448 (erased page No. 461), to a point below the middle of page 468 (erased page No. 481) of the Official Stenographer's Report of the proceedings of the Judicatory at its session on Monday, December 5th, about twenty pages of stenographic notes, and also fifteen or more additional printed sheets beginning at page 468 of the Official Stenographic Report, the statements and matter contained in the said twenty pages of said Stenographer's notes, and in the said fifteen or more additional printed sheets, being matter or statements which were not spoken upon the floor of the Presbytery, and which were permitted to remain as a part of the Stenographer's

Official Report and were received by the said Judicatory as competent evidence.

SPECIFICATION THIRD.

In this, that the Presbytery admitted as lawful and competent testimony any part of the quotations made by the accused, in so far as they were writings or extracts from the writings of the said accused, without his having first taken the oath or affirmation required by Section 61 of the Book of Discipline.

THIRD GROUND OF APPEAL.

DECLINING TO RECEIVE IMPORTANT TESTIMONY.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that the said Presbytery instructed the said Prosecuting Committee to strike out Amended Charge IV., thereby declining to permit the said Committee to prove said Charge IV. by competent evidence.

SPECIFICATION SECOND.

In this, that the said Presbytery instructed the said Prosecuting Committee to strike out Amended Charge VII., thereby declining to permit the said Committee to prove said Charge VII. by competent evidence.

FOURTH GROUND OF APPEAL.

MANIFESTATION OF PREJUDICE IN THE CONDUCT OF THE CASE.

(Section 95, Book of Discipline.)

SPECIFICATION FIRST.

In this, that several members, hereinafter named, of the said Presbytery, sitting in a judicial capacity, who

afterwards voted not to sustain each and every one of the Specifications and Charges, made statements upon the floor of the Presbytery, respectively, as hereinafter set forth, to wit:

Rev. George Alexander, D.D., said:

"What seems to me strange, Mr. Moderator, is that one of Dr. Shedd's acknowledged logical faculty should be so blind to the distinction that ought to be made. I could adopt as my own every word of that which he quoted from Dr. Briggs, and I am not a Restorationist. The Lord has done great things for me whereof I am glad, and I confidently believe that he is going to do a great deal more for me hereafter. But that has nothing to do with the question as to whether Dr. Briggs holds that there is redemption in the world to come for those who die in sin. The difficulty is, that this Charge imputes to Dr. Briggs views which he distinctly says he does not hold." * * * "When Dr. Briggs intimated a suspicion that the Prosecuting Committee might be holding back deliberately with testimony or evidence in order to crush him with it after the opportunity for response had gone by, I resented that suspicion, and if it had been in order I should have risen in my place and asked him to withdraw those words because it seemed to me an unworthy suspicion. Now, that the suspicion seems to be justified by the event, I am at a loss what to say. I am puzzled and distressed. The members of this Prosecuting Committee are my personal friends, I cannot believe that there is one of them that would consciously do an injustice. I won't believe it, but I cannot shrink from the fact that a wrong has been done in some way, and the more I think of it and the more I think of the defendant, from whom I differ so widely, worn out and weak and suffering from this terrific strain, required now to meet this fresh assault—why, the more every drop of Anglo-Saxon blood in me protests against it. We cannot remedy the wrong. All that we can do is to give the defendant, if he desires it (I hope he will not desire it), an opportunity to meet this fresh evidence and this fresh argument; giving him reasonable time to prepare his defense, and, if need be, giving the prosecution the last word. I should not object to that at all. But, having spent so

much time, we cannot afford to seem, even, to do an injustice to any one."

Rev. Antonio Arreghi said:

"An engagement made long before this Court, and made out of fidelity to my work, renders it impossible for me to attend at the sessions of this Court to-morrow and the day after. I therefore ask the unanimous consent of the House to excuse me for those two days. It seems to me a great injustice because I have an engagement, over which I have no control in the least, and if I am not enrolled, it deprives me of the right to vote on this trial. I may say right here that it is well known by the Brethren on which side of the House each man stands on this floor." [Cries of No! no!].

Rev. Henry M. Field, D.D., said:

"I wish at the beginning of this trial we might have one vote that could be unanimous. We are all anxious to hurry on this matter as much as possible. I believe our excellent friends of the Prosecuting Committee would be very glad if this Presbytery would relieve them of the necessity of pressing these two portions of their Charges. Let us be unanimous. I do not think Col. McCook would be at all sorry to have these two Charges stricken out. There are enough Charges left any way to sink a ship. Let us go to trial on them and, if possible, unite in this first disposal of these two Charges, which will be a most happy and auspicious omen for all the rest."

Rev. Thomas S. Hastings, D.D., said:

"The change is radical, in my judgment, between this amended Charge IV. and what was in the former Charges. It gives the lie direct. That is the plain English of it and there is no getting around that by any casuist. Dr. Briggs has told this Presbytery that he does not hold such views, and in his demurrer he has reiterated it. Now, to bring before such a body as this a Charge to try a man upon, assuming that it is doctrinal, when it is really moral—being a question whether he lies or not—is certainly a very serious and a very radical change. * * * * * I said that the charge does give him the lie direct and I adhere to it. I did not say, however, that the Committee called

Dr. Briggs a liar. * * * And I take it that he himself is to be accepted as an authority as to what he meant in that Inaugural Address and in anything else that he has said or published, and what has seemed to me extremely unfair and ungenerous on the part of some is the persistent effort to read into his language what he says distinctly was not in his mind and was not his intention. A man must be his own interpreter, and, as I understand it, Dr. Briggs is before this body saying that he intended no such thing as is charged against him. When a man says that about a charge, it seems to me that it is utterly out of character and out of keeping for the Presbytery to insist upon that Charge. Accept the man's disclaimer and denial and let the Charge be withdrawn."

Rev. Henry Van Dyke, D.D., said:

"I can very readily specify some new matter that has been introduced. It is quite evident that new matter has been introduced [cries of 'No! no!']. Those who do not yet see it will see it when the Court comes to vote upon it. So it is simply a matter of fairness and justice that we should allow the defendant, if he wishes it, to reply. It would be an unheard of thing in any civil Court that a prosecution should be allowed to traverse new ground, and that the accused should not be allowed to be heard or to offer evidence in rebuttal. It is a thing to cause the blood of an Anglo-Saxon to boil within him, every drop of it, too. Moreover, Mr. Moderator, it is not simply that new matter has been introduced, but that statements which have been made by the defendant again and again upon this floor in respect to doctrines which he rejects, have been again attributed to him. And I maintain that it is simply a matter of fairness and candor that we should make this offer to Dr. Briggs, whether he will accept it or not, for the sake of the honor of this House and in the way of decency."

SPECIFICATION SECOND.

In this, that while the said Presbytery in obedience to the mandate of the last General Assembly has issued and tried the case, it has not tried it fully on the merits

thereof, as is evinced by the striking out of Charges IV. and VII. of the Amended Charges and Specifications.

SPECIFICATION THIRD.

In this, that said Presbytery, in said final judgment, by attempting to relieve the said Prosecuting Committee from further responsibility in connection with this case appears to hinder and prevent the attainment of the ends of discipline, apparently aiming to now terminate the said case, and thus secure the same result that the said Presbytery attempted to reach on November 4th, A.D. 1891, by voting to dismiss the said case.

SPECIFICATION FOURTH.

In this, that the said Presbytery, in said final judgment, expresses "an earnest conviction that the grave issues involved in this case will be more wisely and justly determined by calm investigation and fraternal discussion than by judicial arraignment and process," notwithstanding the fact that the General Assembly directed the case to be tried on the merits thereof and thereby expressed a no less earnest conviction that the grave issues involved should be determined by judicial arraignment and process.

SPECIFICATION FIFTH.

In this, that sundry members of the said Presbytery, to wit: Rev. Francis Brown, D.D., Rev. Henry M. Field, D.D., Rev. Thomas S. Hastings, D.D., Rev. J. Hall McIlvaine, D.D., and Rev. Henry Van Dyke, D.D., sat and deliberated in the trial of this case and voted to acquit the said accused, upon each and every specification and charge, after manifestations of prejudice in the conduct of the case, on the part of the said members

was charged in the appeal to and sustained by the General Assembly of 1892.

SPECIFICATION SIXTH.

In this, that sundry Directors, Officers and Professors of Union Theological Seminary, to wit: Rev. Francis Brown, D.D., Rev. Edward L. Clark, D.D., Rev. Charles R. Gillett, D.D., Rev. Thomas S. Hastings, D.D., Rev. J. Hall McIlvaine, D.D., Rev. Philip Schaff, D.D., Rev. W. M. Smith, D.D., Rev. Marvin R. Vincent, D.D., and William A. Wheelock, Esq., sat and deliberated in the said trial and voted to acquit the said accused upon each and every specification and charge, said Directors, Officers and Professors having previously approved and published the said Inaugural Address, as appears in the first edition which bears the imprint: "Printed for The Union Theological Seminary, New York, 1891," "Copyright, 1891, by The Union Theological Seminary," and as also appears in the second edition of said Inaugural Address, which was also "Copyright, 1891, by The Union Theological Seminary," which said Inaugural Address contained the alleged erroneous doctrines for the holding and publishing of which doctrines the accused was then on trial.

FIFTH GROUND OF APPEAL.

MISTAKE OR INJUSTICE IN THE DECISION.

SPECIFICATION FIRST.

In this, that the said Presbytery having declared the said Amended Charges and Specifications sufficient in form and legal effect and the said accused having repeatedly admitted the facts as set forth in the said several Specifications, the said Presbytery was inconsistent

and erred in not accepting the said admissions of the said accused and in not sustaining the said Charges as its final judgment.

SPECIFICATION SECOND.

In this, that the said final judgment of the said Presbytery was not warranted by the law and the evidence, because the Court had decided that the Charges were sufficient in form and legal effect; that is, it had already substantially determined that if the accused had taught the doctrine with which he was charged, he was guilty of an offence The several Charges alleged an offence and the several allegations were proved by extracts from the Inaugural Address cited in the several Specifications, and said extracts were admitted as authentical by the accused, and were not retracted by him. The proof was therefore complete. Said accused also introduced his own writings as evidence, which writings, so introduced, contained the extracts recited by the Prosecuting Committee in the several Specifications. If the accused had brought evidence to show that he had made no such utterances as were contained in the specifications, then and then only should he have been "fully acquitted." The indictment had been found in order. The evidence was unchallenged and the judgment should have been "guilty as charged."

SPECIFICATION THIRD.

In this, that the said final judgment of the said Presbytery, which disclaims to be an expression of the approval of the critical or theological views embodied in the said Inaugural Address, is, in fact, an approval of said critical or theological views and will have the effect of encouraging the dissemination of said views

and will further increase the present disquietude in the said Presbyterian Church and practically sets at naught the declaration of the General Assembly of 1892, as found on page 179 of its Minutes, in which said General Assembly "reminds all under its care that it is a fundamental doctrine that the Old and New Testaments are the inspired and infallible word of God," and that "our Church holds that the inspired Word, as it came from God, is without error. The assertion of the contrary cannot but shake the confidence of the people in the sacred Books."

SPECIFICATION FOURTH.

In this, that the said final judgment is vague and uncertain, inasmuch as said judgment gives due consideration to the defendant's explanation of the language used in his Inaugural Address and accepts his disclaimer of the interpretation which has been put upon some of its phrases and illustrations, but does not specify which explanations, phrases or illustrations, or whether such explanations or disclaimers relate to the portions of the said Inaugural Address upon which the Charges and Specifications are based, and the said judgment is also vague and uncertain in the statement that the said accused has not transgressed the limits of liberty allowed under our Constitution to scholarship and opinion.

SPECIFICATION FIFTH.

In this, that the said final judgment is based wholly, or in part, on the affirmation of loyalty made by the said defendant to the Standards of the Church and to the Holy Scriptures, as the only infallible rule of faith and practice, when such affirmations consisted only of unsworn statements, which statements were not com-

petent evidence and should have had no greater weight or influence in shaping the final judgment than the ordinary and technical plea of "not guilty."

SPECIFICATION SIXTH.

In this, that the said Presbytery received and was moved by unsworn and improper testimony in making its decision or final judgment, said improper testimony being statements and arguments for the defence of said accused, touching the merits of the case and being explanations made by the accused of the language used in his Inaugural Address and also statements referred to in the said final judgment, as a frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations and in giving to the argument of the said accused, as counsel in his own behalf, the consideration due to sworn and approbated testimony as provided for in Sections 61 and 62 of the Book of Discipline.

SPECIFICATION SEVENTH.

In this, that said final judgment is vague and misleading and confounds unjustifiable controversy with useful and constitutional discipline, ignoring the fact that "The ends of Discipline are the maintenance of the truth, the vindication of the authority and honor of Christ, the removal of offences, the promotion of the purity and edification of the Church, and the spiritual good of offenders." (Book of Discipline, Sec. 2.)

SPECIFICATION EIGHTH.

In this, that said final judgment is misleading and unjust, because it evidently but erroneously aims to set forth that there has been an effort to convict the accused by inference or implication, and in quoting the words

"there are truths and forms with respect to which men of good character may differ," seems to deny and make light of the well-established principle of our polity, that there are also truths and forms with respect to which men of good character, who have assumed the ordination vows of a Minister in the Presbyterian Church in the United States of America, should not differ.

SPECIFICATION NINTH.

In this, that upon December 28th, 1892, when the Rev. George Alexander, D.D., offered a resolution as follows, to wit:

"The Court deems it proper to declare that a vote by any member of this Court not to sustain the charges preferred against Rev. Charles A. Briggs, D.D., does not denote approval of his theological or critical views or of the manner in which they have been advanced, but only a judgment that the specific charges have not been established," and after the said resolution had been discussed, it was laid on the table, and subsequently, after the vote on the Charges and Specifications had been taken the said resolution of Dr. Alexander was again taken up and referred to the Committee appointed to prepare the final judgment.

SPECIFICATION TENTH.

In this, that the said Presbytery, on January 9th, A.D. 1893, sitting in private session, refused to strike out of the resolution offered by Rev. Geo. Alexander, D.D., and referred to in Specification Ninth, the words, "does not denote approval of his theological or critical views or of the manner in which they have been advanced."

SPECIFICATION ELEVENTH.

In this, that the said final judgment of the said Presbytery is contradictory in form and effect, because in said final judgment the said Judicatory disclaimed agreement with the critical or theological views held by the accused, which were pronounced by said Judicatory when they voted not to sustain the charges, as in agreement with the Scriptures and the Standards. By reason of their ordination vows and obligations, the views of all the members of the said Judicatory must be assumed to have been in agreement with the Scriptures and Standards. Therefore, if the views of the accused were in agreement with the Scriptures and the Standards, and if the views of the majority of the members of the said Judicatory were not in agreement with those of the accused, then the views of the majority of the members of the said Judicatory must, according to the final judgment, have been in disagreement with the Scriptures and the Standards.

It cannot be urged that there was room for the agreement of both the views of the accused and the views of the majority of the members of the said Judicatory with the Scriptures and the Standards, because said Judicatory had already determined when the charges were pronounced sufficient in form and legal effect, that the said views, if held by the accused, constituted an offence. The Judicatory was therefore shut up to one of two legal and proper courses, either to declare that they agreed with the views of the accused, or to declare that the views of the accused disagreed with the Scriptures and the Standards. In the former case they should have refrained from disclaiming agreement with the views of the accused; in the latter case they should have

voted to sustain the charges. There is, therefore, a contradiction in the form and effect of the final judgment.

And in conclusion your Appellant prays your Venerable Body, the General Assembly of the Presbyterian Church in the United States of America, to receive and issue this appeal, and to take therein such action as in your wisdom may seem best, in order to secure and preserve the purity and peace of our Church.

The Presbyterian Church in the United States of America represented by

GEORGE W. F. BIRCH,
JOSEPH J. LAMPE,
ROBERT F. SAMPLE,
JOHN J. STEVENSON,
JOHN J. MCCOOK,
} Prosecuting Committee. *Appellant.*

II.

ARGUMENT AGAINST ENTERTAINING THE APPEAL.

Mr. Moderator, Ministers and Elders of the General Assembly of the Presbyterian Church in the United States of America:

I appear before you at this time to resist the entertainment of the Appeal entitled "Appeal to the General Assembly from the decision and final judgment of the Presbytery of New York, rendered January 9th, 1893."

THE STATEMENT OF THE QUESTION.

(1). The Book of Discipline (99) makes Dr. Briggs the appellee in the case against him and he is required by law to resist the entertainment of the Appeal against the action of his Presbytery in acquitting him. He is not allowed to employ professional counsel; for the law is:

"No professional counsel shall be permitted to appear and plead in cases of process in any of our ecclesiastical judicatories. But if any accused person feel unable to represent and plead his own cause to advantage, he may request any minister or elder, belonging to the judicatory before which he appears, to prepare and exhibit his cause as he may judge proper." (Book of Discipline, 26.)

If the appellee had been allowed to employ professional counsel he would have done so; or, if it had been practicable to employ a member of the Judicatory at a

sufficient time in advance of the meeting of the Judicatory to enable him to master all the details of the case, he would have employed him; for it is doubtful whether under present circumstances the accused can plead his own cause to *advantage*. There is danger lest hostility to the appellee, or his opinions, may influence the court in their determination of the purely *legal questions* involved in the entertainment of the Appeal. There is danger lest the appearance of the appellee before you may force your attention to his personality and his opinions and so obstruct your consideration of the legal arguments he has to present to you.

It will be difficult for you to distinguish between Dr. Briggs as defendant and Dr. Briggs as counsel for the defendant. This situation is an unfortunate one for the appellee. But you should consider that it is not of his choice; it is a situation forced upon him by the Book of Discipline. It is necessary for him to rise above all personal considerations in the discussion of the entertainment of the Appeal. It is necessary that the court should do likewise. He appears before you not as Dr. Briggs, but as the attorney for Dr. Briggs; and he asks you, as his attorney, to ever bear in mind that the question now before you is not whether Dr. Briggs is right or wrong in his opinions or in his conduct, but simply and alone *whether the Appeal can legally be entertained.*

(2). *The Book of Discipline carefully distinguishes between the entertainment of the Appeal and the sustaining of the Appeal.* (99).—The consideration of the merits of the Appeal is not lawful until the question of the sustaining of the Appeal is in order. The lawful order now is whether the Appeal shall be entertained. We should banish from our minds, therefore, the merits of the Appeal. Neither the appellants nor the appellee are al-

lowed to enter into the merits of the Appeal at this stage of it. We would be called to order if we should venture on this forbidden ground. Still less is it lawful for the judges to enter into the merits of the Appeal prematurely in their consideration of the entertainment of the Appeal. The Moderator cannot call you to order for your thoughts, and feelings, and desires. But as a court it is assumed that you have that self-restraint without which you would be incompetent to sit as judges in the case.

It is true that the grounds of the Appeal have been read to you and so brought before your minds, and you are therefore exposed to the temptation to consider them. But the grounds of the Appeal were not read before you in order that you might consider their merits at this stage. They were read as a part of the Appeal in order that the whole Appeal might be before you. The Appeal was read that you might see its whole form and structure, not that you might consider its matter. It is impossible to present the form to the eye and ear without the matter. And yet we may, and we must, distinguish in our argument between the form and the matter. The question of entertainment has to do with the form of the Appeal, the question of sustaining it has to do with its matter. We now have to consider the form of the Appeal in order to determine all preliminary questions relating to it. The questions to be determined now are not whether there are valid and lawful grounds of appeal which will justify you in sustaining it, if that question should arise; but you have to determine the preliminary questions whether the Appeal is against a final judgment of a Judicatory, whether the appellants are an original party, whether the General Assembly can lawfully take jurisdiction of the case, and other like pre-

liminary questions. Granting for the moment that the appellants may be justified in every one of their grounds of appeal, and that you feel sure that you would sustain the Appeal for the reasons assigned; yet if they do not appeal from a final judgment, if they are not an original party, if, for any valid reason, the General Assembly cannot take jurisdiction of the case; the Appeal cannot lawfully be entertained even if its merits should be the greatest conceivable. The court should therefore keep firmly in mind that they have nothing to do with the merits of the Appeal at this stage of it, but simply and alone with the question *whether it is lawful to entertain the Appeal.*

1.—HOW FAR IS THE APPEAL AGAINST THE FINAL JUDGMENT?

The Book of Discipline limits Appeals to final judgments.

"An Appeal is the removal of a judicial case, by a written representation, from an inferior to a superior judicatory; and may be taken, by either of the original parties, from the final judgment of the lower judicatory." (94.)

The Appeal we are now considering is alleged to be in the title: "*from the decision and final judgment of the Presbytery of New York, rendered Jan.* 9th, 1893."

(1). *The word "decision" in the title of the Appeal is either redundant and so adds nothing to the words "final judgment," or else it implies something additional to "final judgment."* In either case it has no place in the Appeal—for if it be redundant it mars the simplicity and precision of a legal document, and even if it was not designed to mean more than final judgment there is danger lest it may either consciously or unconsciously suggest to some minds more than the law allows. If it implies

something additional to the final judgment and this implication is found in the matter of the Appeal, then the Appeal is something more than an Appeal against a final judgment and so far invalid. It needs but a cursory examination of the Appeal to see that a considerable portion of it extends beyond the limits of a final judgment. This is indeed clear from the professions of the Appeal itself when it is said: "From the aforesaid action, decision and final judgment of the Presbytery of N. Y.—we the undersigned, the Prosecuting Committee, in the said case do hereby appeal to your Venerable Body" (p. 15). So far as this is an appeal against any *action* or *decision* of the Presbytery other than a *final judgment* it is not a lawful appeal. *Therefore you cannot lawfully entertain it until all this irrelevant material relating to actions and decisions of the Presbytery has been removed from the Appeal.*

(2). *The alleged final judgment of the Presbytery of New York from which they appeal, "pronounces the Rev. Charles A. Briggs, D.D., fully acquitted of the offences alleged against him."* This acquittal with such reasons as are assigned therefore, constitutes the final judgment, if this be a final judgment. For the Book of Discipline prescribes that after the parties have been heard,

—"the judicatory shall then go into private session—the parties, their counsel, and all other persons not members of the body, being excluded; when, after careful deliberation, the judicatory shall proceed to vote on each specification and on each charge separately, and judgment shall be entered accordingly." (23).

That only is a final judgment which conforms with this rule. If the Presbytery of New York deemed it wise to combine with their final judgment *decisions* of any kind in the exercise of its functions of government, or *advice* of any kind in the exercise of its episcopal func-

tions, such a combination may not have been in good form or in the best taste; but such decisions and such advice cannot be regarded as parts of the final judgment and so subject to appeal. For the law prescribes that the final judgment shall be entered *according to the vote* and therefore can contain nothing that was not in the vote, namely, the non-sustaining of the charges and specifications, that is to say, the acquittal and its reasons.

It is manifest that the greater part of the Appeal is not against the non-sustaining of the charges and specifications, but against action and decisions of the Presbytery. *All this irrelevant material should be eliminated from the Appeal as invalid and unlawful, before you can lawfully entertain it.*

(*a*). What matters it that the Presbytery acquit Dr. Briggs "without expressing approval of the critical or theological views embodied in the Inaugural Address, or the manner in which they have been expressed or illustrated"? This reservation of approval is not a part of the final judgment even if it is embraced within the limits of the same paragraph. The final judgment is simply and alone the acquittal with its reasons. The Presbytery may have done right or wrong in this reservation of approval. It is not lawful to discuss that question here. But it is lawful for me to call your attention to the fact that such reservation of approval is no part of the final judgment prescribed in the Book of Discipline and that therefore that reservation of approval cannot lawfully be appealed from.

(*b*). The action of the Presbytery, whether right or wrong in relieving "the committee from further responsibility in connection with the case," though adopted in the Report of the committee which contained the alleged final judgment, is entirely apart from the non-

sustaining of the charges and specifications, and is not a final judgment, or part of a final judgment. It cannot therefore be appealed from, but only complained of. This decision of the Presbytery was made in the exercise of its functions of government, not in the exercise of its functions as a court.

(*c*). The Presbytery, in adopting the Report of the committee,

—"earnestly counsels its members to avoid, on the one hand, hasty or over confident statement of private opinion on points concerning which profound and reverent students of God's Word are not yet agreed, and, on the other, suspicions and charges of false teaching which are not clearly capable of proof.

"Moreover the Presbytery advises and exhorts all subject to its authority to regard the many and great things in which we agree rather than the few and minor things in which we differ, and turning from the paths of controversy to devote their energies to the great and urgent work of the Church which is the proclamation of the Gospel and the edifying of the Body of Christ."

This counsel, advice and exhortation may be right or it may be wrong. It is not lawful for me to discuss that question here. But it is lawful for me to say that such counsel, advice and exhortation were given by the Presbytery in the exercise of its episcopal functions. It is entirely independent of the non-sustaining of the charges; it forms no part of a final judgment and therefore cannot lawfully be appealed from. The only remedy for error or wrong in this episcopal action was complaint to the Synod of New York.

Possibly the Presbytery committed an error in all of these decisions and counsels which were added to the alleged final judgment and embraced in the one paper reported by a committee and adopted by the Presbytery, January 9, 1893. It is not for me to go into the

merits of that question. But it is my right to call your attention to the fact that even if all these decisions, and all this counsel, and all these actions were unwise, unlawful and unjust, to the utmost extent conceivable, they are no parts of the final judgment of the Presbytery in the case against Dr. Briggs; they were not involved in the vote not to sustain the charges; but they were simply decisions and actions of the Presbytery in the exercise of its governmental functions, and counsels of the Presbytery in the exercise of its episcopal functions which may be complained of to the Synod of New York but not appealed from as a final judgment. And therefore you cannot entertain an Appeal from such action, decisions and counsels. *You are legally bound to require the appellants to remove all this irrevelant material from their Appeal before you can entertain it; for appeals are strictly limited to final judgments and to them alone.*

(3). The Presbytery of New York were certainly incautious in their final proceedings in the case against Dr. Briggs. On December 30, 1892, they voted upon the Amended Charges and Specifications giving the decision of the Presbytery not to sustain the Charges and Specifications by majorities ranging from six to twenty-four. According to the Book of Discipline they ought then to have entered their judgment according to this vote. Instead of taking this course, after the Moderator had announced that Dr. Briggs had been acquitted on all the charges, he appointed a committee from those who voted not to sustain, to formulate the opinion of the majority, and the judicatory took recess until January 9, 1893, when the Report of the committee was made and adopted by a *viva voce* vote. The Report of this committee contained a formulation of the opinion

of the majority, not only as to the final judgment of the court, but also as to decisions in the exercise of the governmental functions of the Presbytery and advice in the exercise of its episcopal functions. The question arises when was the final judgment pronounced and which is the final judgment. Is the final judgment the announcement of the moderator that Dr. Briggs had been acquitted of all the charges—or was the final judgment given when the Presbytery adopted the Report of the committee ten days afterward? *It is claimed that the decision was rendered on December 30th when the vote was taken and announced by the moderator as a vote of acquittal.* It is claimed by the defendant that he was not and could not lawfully be exposed to a reversal of that verdict by a change in the constituent members of the court at a subsequent meeting ten days afterwards. There was a considerable change in the membership of the court. Many members of the court were absent. There was a possibility of a sufficient change in voters to make a decision not in accordance with the vote not to sustain the charges and specifications on December 30th. There was time for various influences from outside the court to induce it to make a politic deliverance, rather than a deliverance in accordance with justice and right. The law does not contemplate such possibilities, for it says *the judgment must be entered according to the vote.* It is claimed by the defendant that he was not and could not lawfully be exposed to a peril of a reversal of the acquittal in a superior court by any mistakes whether material or formal which may have been committed by a majority of the Presbytery at a subsequent meeting ten days after the vote which pronounced him innocent and acquitted of all the charges and specifications. He could not lawfully be exposed to the

peril of a reversal because of any unlawful procedure of an intermediate party which sought the peace and quiet of the Church whether at the cost of the defendant or of the prosecutors, or of both of them. Yet this is just the peril to which the defendant is now exposed by such alleged mistakes in the action of the Presbytery on January 9, 1893, perils to which he would not have been exposed if the Presbytery had entered its final judgment according to the vote on December 30, 1892. It is claimed that any appeal in order to be lawful should be made against the final judgment of the Presbytery so far as that judgment accords with the decision acquitting Dr. Briggs, on December 30, 1892, which decision was announced by the moderator as an acquittal according to the vote. The Appeal now before you is not against such a final judgment according to the vote of December 30th, but against an alleged final judgment of January 9th, expressing the advice of the Presbytery, and the opinion of the Presbytery on a variety of matters which were not according to the vote of December 30th. It is not therefore a lawful Appeal and you cannot entertain it until all this irrelevant material is removed.

(4). If any one should contend that these are purely technical objections which ought not to be made in an ecclesiastical court as a bar to justice and right; and if any one should urge that the decision of December 30th, that Dr. Briggs had been acquitted on all the charges, was renewed in the adoption of the Report of the Committee on January 9th, in their words: "The Presbytery pronounces the Rev. Charles A. Briggs, D.D., fully acquitted of the offences alleged against him," and that therefore the two actions are substantially identical; let such an one consider (*a*) that the appellants do not limit their Appeal

to this clause of the action of the Presbytery of that date acquitting Dr. Briggs of the offences alleged against him, but they make their Appeal chiefly against other parts of that action which were not contemplated in the vote of acquittal Dec. 30th; (*b*) that the defendant is entitled to the final judgment in its legal form as based on the decision of December 30th, and should not be required to defend another alleged final judgment which is open to attack because it is much more than a final judgment; (*c*) that it is not right to put the defendant in jeopardy a second time because of any alleged mistakes the court may have made at a later date after the verdict was rendered; (*d*) that if the defendant should waive this technical objection how could he be assured that the court of the General Assembly would secure him in his other rights? His experience in the court of the Presbytery and in the court of the last General Assembly has been that his waiver of rights has only stimulated the prosecution in their demands for all that they could possibly get from those judicatories. Why should the appellee waive his rights when the appellants are seeking to deprive him of his ecclesiastical life? For all of these reasons the General Assembly cannot lawfully entertain the Appeal. The Appeal is not so much against the final judgment contained in the action of the Presbytery of January 9th, according to the decision in the vote of December 30th, as against the exercise of the governmental and episcopal functions of the Presbytery, contained in that action, *and you cannot legally entertain the Appeal until all this irrelevant material shall be removed from it.*

II.—IT IS UNLAWFUL FOR A PARTY CLAIMING TO BE A PUBLIC PROSECUTOR TO APPEAL AGAINST A VERDICT OF ACQUITTAL.

The Appeal, if it be a lawful Appeal against a final judgment, is an appeal against the verdict acquitting a minister from the charge of heresy.

(1). *Heresy is defined by Blackstone as a denial of "essential doctrines of Christianity, publicly and obstinately avowed."* So the Book of Discipline defines it as errors which "*strike at the vitals of religion and are industriously spread.*" (41.) The defendant was libelled with just this heresy in six charges, and was acquitted of them all by the Presbytery. Ecclesiastical law has always regarded heresy as a deadly sin and a crime to be visited with capital punishment. In civil law so long as civil law enforced the judgments of ecclesiastical tribunals, heresy was a crime against civil government also. The final judgment of the ecclesiastical court, if it was a condemnation of the alleged heretic, was ordinarily followed by the writ "*de hæretico comburendo*" issued by the crown, and the heretic was burned at the stake. Many such alleged heretics were burned to death all over Europe: John Huss at Constance, Savonarola at Florence, Servetus at Geneva, Cramner, Ridley and Latimer at Oxford. Even in the reign of Elizabeth two Anabaptists were burned, and in the reign of James I. two Arians. But in the middle of the 17th century, in England, the civil law contented itself with the imprisonment of the heretics and the burning of the writings in the market-place by the common hangman.

In the development of religious liberty in Great Britain in the 18th century the punishment of heretics by the civil authorities passed out of use. In the United States of America, with the separation of Church and State,

which is embedded in our constitution, the civil law takes no cognizance of ecclesiastical offences and reserves to itself the power over the person, liberty and life of men. Therefore an ecclesiastical judgment cannot deprive a man of his limbs, his liberty, or his life. But it goes as far as it is possible to go and puts a man in jeopardy of his ecclesiastical life. The lack of power in the Church in this country at the present time to enforce its decisions by any penalties of life, or liberty, or limb, and the ease with which a man condemned as a heretic by one denomination may find a home in another denomination, has weakened the sense of the seriousness of the sin of heresy.

Heresy is defined in our Book of Discipline as "errors which strike at the vitals of religion." These are something more than mere differences of opinion between men who are good and true. These are far more serious than such questions as may be decided by the Presbytery, Synod, or General Assembly by majority votes. They are errors which can only be determined by a judicial process in accordance with the Constitution of the Church. They are errors which involve a process of criminal law—the charge of gross offences "striking at the vitals of religion"; a plea of guilty, or not guilty; an acquittal, or a sentence for an ecclesiastical crime; and a penalty which involves either the suspension, or the deprivation of ecclesiastical life. It is necessary therefore for this court to consider whether *it is lawful to put a man in jeopardy of his ecclesiastical life a second time for offences from which he has been acquitted after full trial in the court of the Presbytery.*

(2). *The Appeal is from a final judgment of acquittal after trial by the court of the Presbytery, not against a decision of a merely voluntary society.* It is true that in

the eyes of the civil law the Church is nothing more than a voluntary society, a social and religious club, with the authority to determine its own membership and from which it may be assumed that a person would voluntarily withdraw when he becomes uncongenial to his associates. It seems probable that this view of the Church is consciously or unconsciously in the minds of a large number of our ministers. It is represented in the court of the General Assembly by a member of the Judicial Committee who in a recent article in which he has been preparing himself and others to consider this case in a judicial frame of mind and in a Christian temper, represents that a Presbyterian minister who differs from a majority of the ministry of the denomination is honorably bound to retire from the denomination. The majority have the authority to determine whether he is right or wrong in his opinions, whether he is guilty of the deadly sin of heresy, whether he has been striking at the vitals of the Christian religion. This is a plausible but a very superficial statement. It is not true of the laws of our native land. It is a principle of civil government that majorities cannot always be *trusted*. A majority in the House of Representatives is checked by the voice of the Senate. A majority of both Houses of Congress is checked by the veto of the President. The combined action of both the executive and legislative branches of the government is checked by the decisions of the Supreme Court. So it has been the policy to put checks on the majority in ecclesiastical courts. The Presbyterian Church like other organized churches has a system of checks and balances of power, and a Supreme Court for the ultimate decision of constitutional questions. A heresy trial does not raise the question *of the opinion of majorities, but questions of law and of right.*

The Presbyterian minister vows in ordination subjection to his brethren, but it is within strictly defined limits—it is only so far as these brethren act "*in the Lord*," that is, as a court of Jesus Christ.

The Presbyterian Church claims in the Confession of Faith that:

"The Lord Jesus, as king and head of his church, hath therein appointed a government in the hand of church officers, distinct from the civil magistrates.

"To these officers the keys of the kingdom of heaven are committed, by virtue whereof they have power respectively to retain and remit sins, to shut that kingdom against the impenitent, both by the word and censures; and to open it unto penitent sinners, by the ministry of the gospel, and by absolution from censures, as occasion shall require." (Conf. XXX. 1, 2.)

The fundamental principle of the Book of Discipline is that "Discipline is the exercise of that authority, and the application of that system of laws which the Lord Jesus Christ has appointed in his church." (1.)

Unless the majority act in accordance with these Presbyterian principles they cannot demand that any Presbyterian minister should be subject to their decisions. The vow of the subjection of the individual to his brethren is strictly limited by the obligation of the Church itself, and of every minister in the Church, to the Form of Government, the Book of Discipline, the Westminster Confession of Faith, and Holy Scripture. These documents make up the constitution of the Presbyterian Church. Within these constitutional limits the majority may exercise their right to decide the questions legally brought before them. If they transcend these limits their decisions do not bind the individual or the Church,—they are altogether null and void. Every minister, whether he differ in his opinions from the majority or

not, has the right to all these constitutional protections. Any effort of a majority to exact of him more than the constitution exacts, and to condemn him for opinions which are extra-confessional, or to convict him for heresy on account of anything that does not strike at the vitals of religion, would be revolutionary. The Church would thereby divest itself of its judicial functions as a court of Jesus Christ, it would put away its constitution and its forms of jurisprudence. It would assume the functions of a religious society, it would undertake to exercise the rights of a club. It might be very good club law, but it would not be ecclesiastical law.

Consider the consequences of this extremely low view of the Church of Jesus Christ. It pushes off the ark of the Church into the stream to drift with every current of traditionalism. It makes any real reformation of the Church impossible, for *when has the Church been revived or reformed by majority votes?* When God has raised up prophetic men to be the leaders in any reform, *majorities have always been against them.*

This unchurchly view makes any correction of traditional error impossible. If the majority have been led by the incompetence and blunders of mistaken leaders into false positions; if the Presbyterian Church has drifted from the principles of the Reformation, and the doctrinal and the ecclesiastical position of the Westminster divines; and a few individuals have learned this by a careful study of the long neglected original authorities; how will it ever be possible to bring the Church back to its true position if the majority are to decide by their own opinions merely, and are not to be themselves corrected by the historical interpretation of their own constitution? It is not likely that the Presbyterian Church will give itself bound hand and foot into the power of

an accidental majority of traditionalists. It will maintain its constitutional freedom and decide the questions now before it as a court of Jesus Christ in accordance with the laws of a constitutional church.

It is a fundamental principle in ecclesiastical law that no one can separate himself from the Church without being guilty of the sin of schism. It is assumed that the Christian has been translated out of the realm of darkness into the kingdom of the Son of God's love (Col. i. 13). If he is by excommunication cut off from the Church, he is, according to the apostle Paul, handed over to Satan (1 Cor. v. 5). If he voluntarily withdraws from the Church, he re-enters the realm of darkness. That is the theory of ecclesiastical law, whether it be right or wrong. That is the theory upon which Church discipline is based. A minister of the Presbyterian Church, it is assumed, has a double call, a divine call from Jesus Christ himself, and a human call in the ordination by the Church. Until recent times ministerial character was regarded as indelible. It could not be renounced by a minister. It could be taken from him only by the Church which gave it to him, after a sentence of deposition for an ecclesiastical crime. It is true that a weakened sense of ministerial functions has wrought a change in recent times. A minister may now renounce the jurisdiction of the Presbyterian Church and have his name erased from the roll, or he may be dismissed to another denomination at his own request, provided he is not on trial. If, however, charges are pending against him, he cannot take either of these courses without an act of violence which would not exempt him from trial. Therefore, for a minister against whom charges are pending, or a minister who has a high sense of the ministerial call, who knows that he is called of

Jesus Christ to the work of the ministry, who has conscientious duties to perform in the Presbyterian Church, —one who has been called to represent a great principle and who cannot retire from the Presbyterian ministry without the disregard of known duty—there is no alternative for such a minister but to abide in the Presbyterian ministry until he is excluded from its ministry by deposition after trial. The ecclesiastical court is obliged therefore, sitting as a court of Jesus Christ and acting in his name, to consider the question of the entertainment of this Appeal, not simply as involving the question whether the minister shall be again put in jeopardy of suspension or exclusion from the fellowship of a merely voluntary society or religious club, but whether or not it shall reopen the question already decided by the Presbytery in order to consider whether *to take from him in whole or in part the external call given him in ordination and whether it shall say, so far as its authority goes, he can no longer be a minister of Jesus Christ.*

It has been necessary to set before you at some length the nature of the crime of heresy and what is involved in its penalty, both in order to overcome misapprehensions on this important subject, prevalent among the ministry, but also in order to get a basis for the argument now to be employed against the entertainment of the Appeal. A much more fundamental principle is now at stake than any principle involved in the questions of law or of doctrine which have thus far been debated in the case of Dr. Briggs. You will go very far in your action upon the entertainment of this Appeal in the determination of the Question for yourselves and for the Christian public, *whether the Presbyterian Church regards itself as a purely voluntary religious society, or as a Church of Jesus Christ.*

(3). It is a well-known maxim of civil law that:

"Nemo debit bis vexari pro una et eadem Causa."

The Presbytery of New York were directed by the General Assembly meeting in Portland May 30, 1892,

—"to proceed to pass upon and determine the sufficiency of the charges and specifications in form and legal effect, and to permit the prosecuting committee to amend the specifications and charges, not changing the general nature of the same, if, in the furtherance of justice, it be necessary to amend, so that the case may be brought to issue and tried on the merits thereof as speedily as may be practicable."

The Presbytery complied with these directions, and after a long and patient hearing of the case, in nineteen sessions extending from November 9, 1892, until January 9, 1893, 128 ministers and elders gave their verdict acquitting Dr. Briggs of all the charges against him by majorities ranging from six to twenty-four. According to the above maxim of civil law this acquittal should be final. This maxim is a resultant of the experience of centuries in the practice of civil law. Will the Presbyterian Church act in violation of this maxim by entertaining the Appeal? The only purpose of the Appeal is manifestly to reverse the verdict of acquittal. Will the General Assembly act in contravention of the common law of Great Britain and America in order to accomplish this purpose? Nothing but imperative reasons could justify such a course.

(4). In the Constitution of the United States you will find the provision in the fifth amendment:

"*No person shall twice be put in jeopardy of life or limb for the same offence.*"

It is true that the Presbyterian Church does not in its ecclesiastical courts put any one in jeopardy of life or

limb. It cannot. The civil law reserves such penalties to itself. But the ecclesiastical court can do a minister vastly greater injury than the mutilation of his limbs, or the depriving him of his physical life. It may mutilate his ministry by suspension, it may destroy it by deposition. The law of Christian discipleship requires a man to sacrifice life and limb for Christ and His Church. The ministers of Jesus Christ are called to deny themselves, take up their cross and follow Him. They are taught to expect suffering, persecution, martyrdom for His sake. There may be in our ministry unworthy men who regard the ministry as something which a man may exercise or not at his convenience or pleasure. It is to be feared that there are those who make the ministry a mere profession or means of livelihood. Such ministers could hardly be expected to take a serious view of the solemn obligations of the ministerial office and of the higher life that is wrapt up in it to the men called of Jesus Christ. But the true and faithful minister never hesitates to sacrifice his life itself for Christ's sake. To injure a minister in his ministry is therefore far more cruel to him than to cut off his limbs. To depose him, and so cut off his ecclesiastical life, is a far greater penalty than to deprive him of his physical life. Will the Presbyterian Church commit an act of cruelty and wrong worse than that prohibited in the constitution of our country? If you entertain this Appeal and put the defendant a second time in jeopardy of his ecclesiastical life in order to satisfy the unrighteous demands of these prosecutors, it needs no prophet to tell you that you will yield still more to their greed and do worse wrong than that which the constitution of our great Republic forbids.

(5). *Ecclesiastical law differs from civil law in some*

respects and allows appeals against verdicts of acquittal, but within certain narrow limits which it is necessary to define. Before 1821 no distinction was made between an appeal and complaint. Under the constitution from 1821 to 1884 appeals were limited to judicial cases. Under the new Book of Discipline they are still further limited to final judgments in judicial cases (94). Precedents should be considered in the light of these changes in the law of appeals, for the most of the appeals mentioned in the Digests of Baird and of Moore would not be lawful appeals under our new Book of Discipline, because they are not from final judgments.

(6). Appeals were defined in the old Book of Discipline until 1884 as "the removal of a cause already decided, from an inferior to a superior judicatory, by a party aggrieved." Under the new Book of Discipline, as "the removal of a judicial case by written representation from an inferior to a superior judicatory, and may be taken by either of the original parties, from the Final Judgment of the lower judicatory." (94.)

Appeals are limited to original parties and indeed aggrieved parties. It is true that the adjective "aggrieved" is omitted from the present Book of Discipline and "original" inserted in its place. But the rule that there must be a grievance although not stated should still be regarded as binding, for it is a fundamental principle in all law, civil and ecclesiastical, and we cannot suppose that the Presbyterian Church would undertake to supersede it. All the precedents in our courts, civil and ecclesiastical, require appeals to be made by aggrieved parties. This General Assembly will hardly venture to entertain an Appeal from a party unless they can convince you of a grievance. And that grievance ought to be very great to justify you in

reopening the question of the guilt of a minister of the sin and crime of heresy.

(7). There can be no doubt of the right of appeal of the party who is convicted and who is aggrieved by a sentence which imposes penalties upon him. Civil and ecclesiastical law agree in this. But the question is *whether an unsuccessful prosecutor has the right of appeal.*

In civil law where parties litigate and where either party may suffer grievance from the final judgment of the court, either party may appeal. There are cases in ecclesiastical law in which private parties may litigate on account of private offences. In such cases either party may appeal when aggrieved. The Book of Discipline distinguishes between public and private offences. It prescribes the preliminary steps which shall be taken in both classes of offences. It requires that in private offences "no prosecution shall be allowed in case of alleged personal injury, where the injured party is the prosecutor, unless those means of reconciliation have been tried which are required by our Lord (Matthew xviii. 15-17)." (8.) But "the course prescribed by the preceding section shall not be required when the prosecution is initiated by a judicatory." (9.) The case against the defendant is not a case of litigation between two private parties where a private offence has been committed. It was not begun in the method prescribed for private offences. The case relates to a public offence and the prosecutor is a public prosecutor. Therefore, there can be no question of a grievance of individuals. *The only grievance which can be argued is the grievance of public prosecutors, and the right of appeal for personal grievance cannot be pleaded by them.*

(8). In ecclesiastical law private prosecutors are allowed

in cases of ecclesiastical crime. This is in accordance with the ancient practice in criminal law, which has been done away with in modern times. In ancient law the nearest kinsman was the prosecutor and the avenger of blood. Private wrongs or wrongs to the clan were more emphasized than public wrongs or wrongs to the community, and therefore where the crime, according to modern views, would embrace both public and private wrong, the party suffering the wrong or his nearest of kin personally conducted the process against the wrong doer. The development of criminal law has tended more and more to merge the private offence in the public until the private wrong has been well-nigh submerged in the ocean of public wrong. The seeking of redress by individuals has been shown by experience to be productive of bitterness and revenge ever increasing between the parties and their friends in the process of the litigation. Accordingly, the law of England hedged it about more and more limiting it to felony and mayhem and exposing the prosecutor who failed in his charges to heavy damages and imprisonment; so that private process became more and more infrequent until at last it was abolished by law soon after the last case of it in 1818.

In modern criminal law the prosecutor must always be a public prosecutor and the prosecution be conducted in the name of the commonwealth. Ecclesiastical law lingers behind the civil law in its development. Private prosecutors are allowed still to prosecute in ecclesiastical courts, and having this right of prosecution they may appeal in case of public offences if they have been *aggrieved* by the decision, but not otherwise. It should be observed that the private prosecutor is exposed to a penalty in case of a failure to convict, just as he used to be in the civil courts. The law is:

"Any person who appears as a prosecutor, without appointment by the judicatory, shall be warned before the charges are presented, that, if he fail to show probable cause for the charges, he must himself be censured, as a slanderer of the brethren, in proportion to the malignancy or rashness which may appear in the prosecution." (14.)

Therefore, if the private prosecutor fail in his prosecution he may suffer a grievance and so have the right of appeal. Furthermore it is assumed that in all cases of private prosecution there must be a private wrong wrapt up in the public wrong. The prosecutor must show some personal wrong or grievance before he is allowed to prosecute in the civil courts. The ecclesiastical courts are governed by the same principle. The party prosecuting must be an aggrieved party or he cannot lawfully prosecute. It may be conceded that private prosecutors have not been held strictly to this principle in the courts of the American Presbyterian Church. But great mischief has resulted from the neglect of this rule. And we should always bear in mind the maxim that a bad precedent cannot make good law. Whatever looseness there may have been in the interpretation of the law of grievance in the ecclesiastical courts, yet the law itself is on the statute-books that *there must be a grievance or there can be no appeal.* And this has been the practice of the General Assembly as well. In 1874 an appeal against the Synod of Illinois South was dismissed because the appellant was not an aggrieved party. (Minutes, p. 62.)

All the appeals of prosecutors known to Presbyterian practice are of private prosecutors and these were required to show that they were aggrieved. But the case against the defendant was not conducted by a private prosecutor, and therefore no one is entitled to urge any such

precedents. These prosecutors have no right to claim on the one hand the grievance of a private prosecutor, and on the other hand the immunity of a public prosecutor, and shield themselves behind the Presbyterian Church in the United States of America against a counter action for slander.

(9). *When the commonwealth is the prosecutor in a criminal case, no appeal is lawful in behalf of the prosecution. Even when justice miscarries an appeal is forbidden.* As an eminent authority says:

"If, through a misdirection of the judge on a question of law, or a mistake of the jury, or their refusal to obey the instructions of the court, or any other like cause, a verdict of acquittal is improperly rendered, the verdict can never afterward, on the application of the prosecutor, in any form of proceeding, be set aside and a new trial granted."

And again:

"A statute which undertakes to give to the State the right of appeal, to retry the party after acquittal on a valid indictment, is void. And no writ of error, or other proceeding, allowed to the State, can constitutionally open anew the question of guilt, after the jeopardy has attached. Even though an acquittal has been produced by an erroneous direction of the judge at the trial the result is the same." (Bishop on Criminal Law, 993, 1026.)

The prosecution in the case against Dr. Briggs has been conducted by a committee of Presbytery, claiming to be a committee of prosecution, acting in the name of the Presbyterian Church in the United States of America. Such a public prosecutor has no right of appeal by any statute law of the Presbyterian Church. There is no precedent to justify such an appeal in the practice of Presbyterian courts. The common law and the practice of the civil courts forbid it. Therefore such an appeal is without warrant and illegal. The General

Assembly cannot entertain it without a violation of all law and all precedent. You would enter into conflict with the *legal experience of mankind.* You would do the appellee a wrong that the civil courts would not hesitate to redress.

(10). *This committee of the Presbytery of New York is not an aggrieved party.* They have suffered no injury by the acquittal of Dr. Briggs. They claim to be public prosecutors, not individual prosecutors. Therefore they have suffered no personal grievance. If there has been any grievance it has been a public grievance which they suffer only vicariously. If they feel any disappointment in their failure to convict the accused, they should remember that they were not appointed to convict, but only to prepare the case in behalf of the Presbytery subject to the decision of the Presbytery. They have fulfilled the task assigned them and they should acquiesce in the result. When they became public prosecutors they merged personal considerations. To appeal against the Presbytery which appointed them lays them open to the imputation of personal animosity in the case such as might be natural even if wrong in a private prosecutor, but which is both unnatural and unlawful in a public prosecutor. The Book of Discipline requires that:

"Great caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit toward the accused, or who is not of good character, or who is himself under censure or process, or who is personally interested in any respect in the conviction of the accused, or who is known to be litigious, rash, or highly imprudent." (13.)

If such a law is necessary in the case of a private prosecutor, how much more does it warn the public prosecutor; and if the public prosecutor persist in an

appeal against a verdict of acquittal which has followed a previous dismissal of the case, notwithstanding the Presbytery which appointed them advise them to discontinue litigation, they raise the question whether they may not have such "malignant spirit" and such "personal interest in the conviction of the accused" and be so "litigious, rash, or highly imprudent," that they may be no longer competent prosecutors: and whether the General Assembly should not first inquire whether their grievance consists in any other thing than a failure to convict Dr. Briggs, and of that sense of wrong which those so deeply feel who are causing grievance to others.

(11). *This committee of Presbytery do not give any other grounds of appeal than such as a public prosecutor might give in a case of criminal law.* The grounds of appeal are "irregularity in the proceedings of the Presbytery," "receiving improper testimony," "declining to receive important testimony," "manifestation of prejudice in the conduct of the case," "mistake or injustice in the decision." Granting for the moment that the public prosecutor could establish all these grounds of appeal and all their specifications: it is not lawful to discuss at this stage whether they are valid or not. But even if they should be all valid, yet we must say, while these are lawful grounds of appeal in cases of private offences and of questions of law between litigants—they are not valid grounds of appeal against an acquittal of heresy by a public prosecutor. The civil court would not recognize such mistakes in law, or alleged injustice of the decision as grounds for appeal against a verdict of acquittal. No more can the ecclesiastical court do so. If such alleged mistakes in law do not invalidate an acquittal in a civil court and justify an appeal, how can they have a different result in an ecclesiastical court unless there is a

statute law plain and evident to justify such an appeal? There is no such law. There is no such precedent.

(12). *It may be claimed by some that the Presbyterian Church of the United States is aggrieved by this acquittal.* But who shall say this? The public prosecutors? The appellants seem to think that they are suffering grievance vicariously for the Presbyterian Church. There are those who encourage them in this opinion. But for whom do they suffer grievance? Not for the Presbytery which appointed them, for they appeal against the final judgment of the Presbytery. They claim that they suffer grievance by that final judgment. Not for the Synod of New York, for the Synod of New York has not yet recognized them as a party in the case. Not for the General Assembly, for the General Assembly gave them no appointment, gave them no authority to act as its representatives. For whom, then, do they suffer vicariously? They say for the Presbyterian Church in the United States of America—doubtless thinking that the party in the Church which is pushing them on, is the majority of the Church and is the Church. Possibly they may be correct in their opinion that the majority in the Presbyterian Church feel aggrieved by the verdict of acquittal against which they appeal. But when in civil or ecclesiastical law has it ever been allowed for the public prosecutor to claim that he must appeal because in his opinion the majority of the people were aggrieved by a verdict of acquittal? Such a thing is unknown to law.

The case against Dr. Briggs has been tried and the verdict has been given in the lawful court of the Presbytery. If a civil court had acquitted a man on trial for murder it would be no ground of appeal, that the commonwealth was aggrieved by his acquittal. Possibly

public opinion, often ill-informed, might regard the acquittal as injurious to the commonwealth. The *National Spy* might by its private detectives have so investigated the matter as to leave no doubt in the minds of its readers that the acquittal was a great mistake and an encouragement to crime. But an appeal would not be valid on that account. Possibly public opinion in the Presbyterian Church, excited by interested parties and warped by the misrepresentations of partisan religious newspapers, may feel aggrieved by the acquittal of Dr. Briggs; but no law, common or statute, civil or ecclesiastical, recognizes such floating and undefined public opinion as a valid reason to put him in jeopardy a second time. He cannot legally be tried by public opinion, but only by the ecclesiastical court of the Presbytery. He cannot be convicted because public opinion may think him guilty. His guilt must be proven in court. The court is the tribunal to determine his guilt or innocence. The Presbytery has given its verdict that Dr. Briggs is innocent. The public prosecutor cannot plead public opinion as a sufficient reason to put him in jeopardy again.

(13). It may be urged that the acquittal not only determined that the defendant is innocent of the crime of heresy, but also *determines questions of great doctrinal and constitutional importance which should receive their final determination only from the supreme court of the Presbyterian Church in the United States of America.* But the final judgment of the Presbytery of New York does not and cannot finally determine such questions of doctrine or of the constitution. It simply and alone determines that the defendant is innocent of the specific charges made against him. The decision of the Presbytery of New York in the case of Dr. Briggs does not

bind any other Presbytery; still less the General Assembly of the Presbyterian Church in the United States of America as to any matters of doctrine or of law. An acquittal does not determine whether his doctrines are right or not; but only that he is not personally guilty of heresy. The doctrines of Dr. Briggs stand or fall by themselves, without any endorsement of the Presbytery, and without any responsibility of the Presbytery, or the Presbyterian Church for them. It is a common mistake that the Presbyterian Church is responsible for all doctrines of its ministers. The Presbyterian Church is responsible for its constitution and its constitutional rules, and for them alone. It cannot exact more of its ministers. It cannot be responsible for anything that they may say or do which is not in accord with these rules. That is the law and usage of the Church and the path of safety. Any other path leads to strife and questions of conscience with regard to every expression of opinion and every detail of conduct.

If it were lawful to appeal every case of doctrine and law brought before the court of the Presbytery, it would compel the General Assembly to finally determine all these doctrinal and legal questions. If this Appeal should be sustained it would become an unfortunate precedent which would be followed by public prosecutors hereafter, who would in many cases, if not most cases, magnify their office and bring differences of opinion before the supreme court of the Church, and thus establish a new and easy way for ambitious litigants to secure authoritative decisions of the General Assembly in many matters of faith and morals, of life and work, which are now regarded as legitimate matters of private opinion; and thus imperil the constitution by an unending series of heresy trials and resulting changes in the doctrine and law of the Presbyterian Church.

Furthermore, it is not altogether certain that the decisions of the General Assembly sitting as a court in a judicial case finally determine questions of doctrine or morals to which every minister is bound in conscience to submit. It is possible that a majority of the General Assembly might make an unconstitutional decision, and that there might be a series of decisions of questions of doctrine and morals in contravention of the doctrinal and ecclesiastical standards. What course shall a synod, or a presbytery, or a minister pursue in such a case? They may be justified in saying, we refuse to submit to the decisions of this unrighteous majority. We shall continue to maintain our constitutional rights. In the next heresy trial we look for a righteous verdict. As our Confession says:

"All synods or councils since the apostles' times, whether general or particular, may err and may have erred; therefore they are not to be made the rule of faith or practice, but to be used as a help in both." (XXXI. 3.)

Unless the high court of the General Assembly act in strict accordance with the forms of law and with the constitution of the Church and with the sacred rights of man as set forth in Holy Scripture and our national constitution, it will be no rebellion if the minority in the Church continue the struggle against unrighteousness and wrong, hoping for better times. The General Assembly cannot lawfully revise or amend the constitution by final judgments in heresy trials. The most that you can do is to cut off the ecclesiastical life of the man on trial, and raise the question of conscience with those who sympathize with them, whether they shall protest against the injustice and share his fate, or whether they shall continue the battle for right within the Presbyterian Church.

It was never designed that trials for heresy should be the means of securing decisions of questions of doctrines and morals. *The court is for discipline, not for government; for trials of law, not for definitions of faith and morals. Trials for heresy are disciplinary procedures in order to determine the innocence or guilt of individuals, not to determine the truth or error of propositions.* It is a misfortune if the General Assembly is required, in order to right wrongs, to indirectly decide questions of faith; for the purpose of the litigation is to right wrongs and not to determine doctrines. If there is a difference of opinion in the denomination and parties are divided in opinion on great doctrines of faith, the Form of Government prescribes the legal method for determining the questions, *i. e.*, by overtures from presbyteries to the General Assembly, the formulation of statements of opinion by committees of the General Assembly and then the submitting of these statements of opinion to the presbyteries for their decision. If a sufficient number of presbyteries adopt these statements of opinion they justify the General Assembly in defining the faith of the Church. Then those who cannot subscribe to these definitions are excluded from the Church without a heresy trial, by the very declaration of these definitions.

The public prosecutors are pushing the Presbyterian Church into a very inconsistent and dangerous position. They are endeavoring to secure new definitions of dogma by final judgments in a heresy trial, when they ought to aim to secure them by overtures in accordance with the provision of the Form of Government. *The Form of Government prescribes their path, not the Book of Discipline.*

(14). *The Presbytery of New York, the largest Presby-*

tery in the Presbyterian Church, after a long and patient consideration of the merits of the case, gave a verdict of acquittal. Would the General Assembly be willing to give the same amount of time and the same degree of patience to the consideration of the merits of the case, if the Appeal should be entertained? The General Assembly is composed of more than five hundred members from all parts of the United States. Is it likely that so numerous a body will be a more equitable court than the Presbytery of New York? Let any one consider the situation of affairs in the Presbyterian Church since the process was begun against Dr. Briggs and honestly ask whether the General Assembly is likely to be in a more judicial frame of mind than the Presbytery of New York. If the General Assembly should entertain this Appeal it would be necessary to consider the merits of the case with the utmost care, with evident impartiality, with entire freedom from party prejudice and with unwearied patience for several weeks; or you could not win public confidence in your justice, or public respect for your decision. If you override all the provisions of the constitution, and the maxims of civil law, the usages of civil and ecclesiastical courts in order to entertain an Appeal and then rush to a hasty decision; you will strike a deadly blow at the constitution and the discipline of the Presbyterian Church.

(15). *The Presbytery of New York rendered its verdict of acquittal notwithstanding very great pressure upon its members to vote for conviction.* It is necessary briefly to review the case. January 20th, 1891, Dr. Briggs delivered his Inaugural Address on the *Authority of Holy Scripture*, in the chapel of the Union Theological Seminary, New York. A garbled outline of that Address was published in many of the religious and secular

newspapers and public opinion was excited against it before the Address was published. April 18th, 1891, on motion of Dr. Birch, by authority of the Presbytery of New York, the Moderator, Dr. Shearer, appointed a committee to consider the Inaugural Address and to report at the meeting in May. This action was taken against Dr. Briggs in his absence. He was confined to his house by illness. He had no warning of the proposed motion. This action was therefore in violation of the law of the Church "that no discussion ought to be allowed involving the character of an absent person in his absence." Against this action of the Presbytery Dr. Briggs protested at the meeting in May, that it was unlawful and without precedent. At the same meeting the majority of the committee reported recommending "that the Presbytery enter at once upon the judicial investigation of the case." This report was adopted and a committee was appointed by the Moderator, Dr. Shearer, consisting of the majority of the former committee, to "arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs." Against this action Dr. Briggs gave notice of protest and complaint to Synod, but subsequently withdrew this complaint in order that there might be no delay in the advance toward judicial proceedings. Thus far the Presbytery of New York acted unfairly towards the defendant. It gave him no opportunity to explain his Inaugural Address or of giving satisfaction to the Presbytery.

The directors of the Union Theological Seminary undertook to satisfy themselves and to remove the public prejudice, by securing from Dr. Briggs categorical answers to eight questions embracing the chief points at issue. This was published by the authority of the

directors. But the General Assembly at Detroit in May, 1891, notwithstanding these categorical answers, undertook to veto the transfer of Dr. Briggs to the chair of Biblical Theology. Several of the prosecutors took part in the act of veto and used their personal influence in its behalf; and then returned to New York and, with the other members of the committee "appointed to prepare the necessary proceedings," blossomed out into a prosecuting committee, by their own inherent energy. Under the increased impetus of the action of the General Assembly of Detroit, the Presbytery suffered them to table charges against Dr. Briggs, October 5, 1891, and cited him to answer and plead to them. It refused to dismiss the case. On November 4, 1891, he appeared and filed objections against "the sufficiency of the charges and specifications in form and legal effect." The Presbytery thereupon dismissed the case against him by a vote of 94 to 39. Up to this dismissal in every vote the Presbytery had been adverse to the defendant. The dismissal was made after hearing his Demurrer, notwithstanding the veto of the General Assembly and the previous adverse votes of the Presbytery.

In April, 1892, the adverse influence in the Presbytery against Dr. Briggs reasserted itself in the vote which sent to the General Assembly at Portland four members of the committee which had been prosecuting him and eight other friends of the prosecution out of a total of fourteen commissioners. The General Assembly at Portland sustained the Appeal against the decision of the Presbytery and ordered a new trial.

The Presbytery met on November 9, 1892, under the influence of this unfavorable action of the General Assembly at Portland, overcame the preliminary objection

of Dr. Briggs, refused to hear his argument on the preliminary objection and allowed the committee to table new charges. The defendant on November 28, 1892, made preliminary objections to the Amended Charges showing that they were insufficient in form and legal effect, insisting upon several of these objections, but waiving his objections to six of the charges under certain conditions accepted by the Presbytery, in order to go to trial in accordance with the directions of the General Assembly. If the defendant had appeared before the Presbytery under more favorable circumstances and had not been confronted by the adverse decisions of the General Assemblies at Detroit and at Portland, he would have claimed as his right that these six charges should be dismissed as insufficient in form and legal effect. As it was, he personally waived his objections to them under certain conditions, and threw the responsibility upon the Presbytery whether they were ready to go to trial on illegal and invalid charges.

Notwithstanding the concessions made by the defendant the Presbytery overcame several of his preliminary objections upon which he took his stand, forced him to make several complaints to the Synod of New York and then proceeded to trial. The defendant felt deeply the disadvantage of the situation, and yet after the full hearing accorded to both parties, during which the court in every way favored the committee of prosecution and even allowed them to act in defiance of the rulings of the Presbytery so as to argue on two of the charges which had been thrown out, and to review the whole case and introduce new matter under the guise of rebuttal; the court acquitted him on all the charges by majorities ranging from six to twenty-four. Under these circumstances of a dismissal in 1891 and an

acquittal in 1892, by a court which showed so evidently, to say the least, that they were not biased in favor of Dr. Briggs, and which was under the external pressure of the unfavorable action of two General Assemblies, and which was compelled to acquit him by the evidence in the case; is it equitable to put the defendant in jeopardy again for the offences charged against him? No civil court could do such a wrong. It would be a new and an iniquitous precedent in an ecclesiastical court. The civil courts might feel compelled in the interests of equity to interpose.

The General Assembly cannot entertain this Appeal without doing violence to the sense of right which is exhibited in the constitution of our country, in the maxims of common law, in the statutes of our commonwealth, and in the practice of our civil courts; without establishing an entirely new and dangerous prccedent in ecclesiastical law; without doing grave injustice to the defendant and to the Presbytery of New York; and without undermining public confidence in the equity of Presbyterian discipline.

This is too heavy a cost to pay for the sake of securing a condemnation of one man, however objectionable he may be. This is too great a strain to put upon our constitution, in order to gain a decision on questions of doctrine which may be more clearly and satisfactorily defined by a procedure prescribed in the Form of Government. The common law lays down this fundamental principle which applies to this case, if to any:

"*It is for the public good that there be an end to litigation.*"

III.—PENDING THE COMPLAINT TO THE SYNOD OF NEW YORK ON THE QUESTION WHETHER THE APPELLANTS ARE AN ORIGINAL PARTY AND BEFORE THE DETERMINATION BY THE SYNOD OF THAT QUESTION THIS ASSEMBLY CANNOT ENTERTAIN THE PRESENT APPEAL.

The General Assembly meeting at Portland while considering the question of the entertainment of the Appeal against the Presbytery of New York in dismissing the case against Dr. Briggs, were informed by the appellee on May 26th, 1892, that a complaint was pending before the Synod of New York against the decision of the Presbytery of New York, Nov. 4th, 1891, in sustaining by a vote of 64 to 57 the ruling of the Moderator as follows:

"'1. That the committee which preferred charges against Dr. Briggs (presented to Presbytery Oct. 5th, 1891), was a committee of prosecution under section 11 of the Revised Book of Discipline;

"'2. That the committee was in the house on the day on which the citation was returnable (Nov. 4th, 1891, as aforesaid), as an original party;

"'3. That the committee as an original party, was virtually and practically independent of the Presbytery.'

"This Complaint bears the signature of 114 ministers and elders of the Presbytery of New York.

"According to the Book of Discipline (83), 'a complaint is a written representation, made to the next superior judicatory.' A complaint cannot be carried from the Presbytery to the General Assembly. Therefore the only redress the defendant had against the decision of the Presbytery in these important matters was by complaint to the Synod of New York. This Complaint involves the very existence of this committee which has appealed; whether they were appointed as a prosecuting committee, whether they are an original party, whether they have any right to act independent of the Presbytery, and against the Presbytery. If the Synod should decide any of these questions in accordance with the views of the complainants, the appellants

would have no present right of appeal, and could not therefore appear before you as appellants at this time. The defendant does not raise those objections here, because they go before the Synod of New York for its decision, and he reserves the right with others, his co-complainants, to argue these questions before the Synod of New York."

The General Assembly at Portland after hearing this statement of reservation, adopted the report of the majority of the judicial committee that the Appeal was in order and that the Appeal should be entertained and a time set for hearing the case. But they refrained from adopting the report of the committee as a whole, or that part of the report which recognized the appellants as a committee of prosecution and an original party. The part of the report *not* adopted is as follows:

—"that, in the opinion of this committee the Appeal taken by the Presbyterian Church in the United States of America, an original party, represented by the 'Committee of Prosecution,' appointed under section 11 of the Book of Discipline, has been taken from the final judgment of the Presbytery in dismissing the case; and that the said committee had the right to take this Appeal representing the said original party."

The reasons for not adopting this part of the Report of the Judicial Committee, were doubtless that, (1) the appellants had not asked the Assembly to decide that question, and (2) the appellee had distinctly reserved it for the jurisdiction of the Synod of New York in the Complaint pending before the Synod; and (3) the Assembly desired to avoid any possible conflict of jurisdiction between the General Assembly and the Synod of New York.

The appellee was so extremely careful to reserve this question of parties for the decision of the Synod of New York that at the very beginning of his argument against sustaining the Appeal he said:

"The appellee is now called upon to resist the Appeal made to your venerable body by the alleged Prosecuting Committee of the Presbytery of New York. You have decided to entertain the appeal despite my protest and reservation of rights. It is now necessary for me, before going a step further, to say that I do not consent to your decision. I do not waive my right, or the right of my co-complainants, to prosecute our complaint before the Synod of New York, in order that it may be determined there whether the appellants were appointed as a Committee of Prosecution by the Presbytery of New York, whether they are an original party, and whether they can act as appellants against the decision of the Presbytery to dismiss the case. We reserve this right. The appellee does not waive his right to seek any relief that may seem to be proper against your decision to entertain the appeal. He enters upon his response to the objections of the appellants with all these reservations of right."

It is argued by the prosecutors that the Assembly by entertaining the Appeal implicitly recognized them as parties. But this is not true. They recognized them as *prima facie* a party whose right was not questioned before them; but they did not undertake to decide the question whether they were real parties, which question was reserved for the decision of the Synod of New York.

It is evident that the General Assembly reserved its opinion on this question of the right of a public prosecutor to appeal as an original party, for it was brought up before the Assembly by an overture from the Presbytery of Cayuga:

—"asking that an interpretation of the Book of Discipline be given which shall cover the points at issue:

"*First.*—The Constitution of the Presbyterian Church is not less just or less enlightened than that of the United States. Hence the principle laid down in the fifth amendment to the Constitution of the United States, in the words, 'Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb,' is applicable in all prosecutions initiated by any judicatory of the Presbyterian Church.

"*Second.*—In the Presbyterian Church a prosecution may be initiated either by a private prosecutor or by a church judicatory. In the latter case, if the judicatory disposes of the matter without convicting the accused, he ought not for the same offense to be again put in jeopardy of ecclesiastical penalties. Especially is it absurd to hold that a judicatory has for the purpose of putting an accused person a second time in jeopardy the right to appeal from its own decision. And certainly a right which it never possessed it cannot delegate to any person or committee.

"*Third.*—If the Revised Book of Discipline of the Presbyterian Church does not forbid such violations of the rights of men as are recognized in the Constitution of the United States, and among all civilized nations, at least it does not require them, and the judicatories of the Church may exclude them, and ought to exclude them.

"*Fourth.*—There is no necessity in the Presbyterian Church for giving the right of Appeal to a public prosecutor in defiance of the enlightened judgment of mankind; for the rights of an unsuccessful prosecutor are abundantly protected by other provisions in our constitution. As the prosecution of offenses is often a thankless task, undertaken for the public good, those who undertake it should be amply protected. But it is equally true that all persons should be protected from unreasonable prosecutions, and that members of judicatories should be protected from being compelled needlessly to give their time to ecclesiastical trials."

This overture was referred to the same judicial committee which had reported that the Appeal in the Briggs case was in order. Their report was made subsequent to the decision of the Assembly in the Briggs case and in the light of it. Nevertheless the Assembly adopted as its reply the recommendation of the Committee, viz.: "that as the subjects referred to are presented *in thesi*, it is inexpedient for the Assembly to make any answer." (Minutes, p. 23.)

It has also been argued that the Protest signed by Dr. McPherson and some 53 others implies that the General

Assembly decided the question whether the appellants were an original party. This is the language of the Protest:

"We, the undersigned, ministers and elders, commissioners of the 104th General Assembly, do hereby enter and record our protest against the action of the General Assembly in entertaining the appeal in the case of 'The Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D.,' and so giving to the committee which preferred the charges against Dr. Briggs, standing before the Assembly and right of appeal as an 'original party,' beyond the control of the Presbytery and its power to discharge them when dismissing the case."

But what answer did the Assembly give to the Protest? No answer. The Assembly was non-committal. Notwithstanding the fact that the moderator was authorized to appoint a committee to answer the Protest, the Protest was "ordered to be entered on the Minutes of the Assembly without answer." (Minutes, p. 25.)

It is clear therefore that the Assembly declined to decide the question whether the committee was an original party. (1) They declined to determine the question in face of the reservation by the appellee of his own rights, of the rights of his co-complainants, of the rights of his Presbytery, and of the rights of his Synod; (2) they declined to answer the question when it was raised before them a second time by the Presbytery of Cayuga; (3) they declined to answer the question when it was forced upon them the third time by a protest of 54 commissioners of the Assembly. *They wisely and persistently declined to answer the question because they saw clearly that they would thereby be involved in an inevitable conflict of jurisdiction with the Synod of New York.*

(2). *This question of the original party is not a merely technical question, but one of the most important that has ever been brought before a judicatory*, one which has far-reach-

ing consequences, affecting the rights of every judicatory, every office-bearer, and every communicant in the Presbyterian Church. It is necessary that you should patiently consider the question in its historical evolution in connection with this case.

April 18th, 1891, on motion of Dr. Birch, a committee was appointed to consider "the Inaugural Address of the Rev. Charles A. Briggs, D.D., in its relation to the Confession of Faith." The majority of this committee reported May 11th, recommending "that the Presbytery enter at once upon the judicial investigation of the case." This report was adopted. Then, on motion of Dr. Shiland, a committee was appointed "to arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs." This is the authority on which the prosecution act. This is the basis on which all their claims rest to be a prosecuting committee, an original party, independent of the Presbytery and representing the Presbyterian Church in the United States of America. Certainly one finds none of these things in the terms of their appointment. There is not a word about their being a prosecuting committee. There is not the slightest reference to the Presbyterian Church in the United States of America. They were a committee of Presbytery, to arrange and prepare something which they were to report to the Presbytery. They were given discretion as to what might be necessary and what might be appropriate to report. But the Presbytery did not endow the committee with plenary power to determine of themselves without regard to the wishes of the Presbytery what was appropriate and what was necessary.

It is claimed that the Presbytery had no alternative than to appoint a prosecuting committee according to the Book of Discipline which prescribes:

"When the prosecution is initiated by a judicatory, it shall appoint one or more of its own members a Committee to conduct the prosecution in all its stages in whatever judicatory, until the final issue be reached." (11.)

If the Presbytery had determined to initiate prosecution by the judicatory, certainly it was required by law to appoint such a prosecuting committee. But the Presbytery may have disobeyed the law and so made themselves liable to censure. It does not follow because there is such a law that the Presbytery must certainly have obeyed it. The terms of the appointment of this committee show no recognition of such a law either in the matter or form of their appointment.

But there is no sufficient evidence to show that the Presbytery had reached the point when they had decided to initiate proceedings by the judicatory. (*a*) The mover of the resolution which appointed the committee signed the complaint to the Synod of New York in which he says with 113 other ministers and elders of the Presbytery of New York, that this committee was not appointed as a prosecuting committee. (*b*) The Presbytery, May 11, were confronted by a protest and a complaint to Synod made by Dr. Briggs against their preliminary action, and it was not clear what might be the necessary and appropriate proceedings in view of that complaint and protest. It might be best for the Presbytery to postpone further proceedings until the Synod had decided upon this Complaint against its preliminary procedure. (*c*) The General Assembly had not yet met, and the Presbytery could not know what proceedings the General Assembly would direct, after giving its advice upon the numerous overtures coming before them with regard to the Inaugural of Dr. Briggs. (*d*) The chairman of the committee, Dr. Birch, said himself on the floor of the Presbytery, that it

might be necessary for him to act as an individual prosecutor in the case. (*e*) The Rev. Dr. Sample, a member of the committee, called upon Dr. Briggs and privately requested him to appear before the committee and make statements and explanations so as to obviate the necessity of tabling charges. This was an act of kindness and Christian courtesy on the part of Dr. Sample which he could not have undertaken if he supposed that he belonged to a prosecuting committee appointed after the Presbytery had determined to initiate procedure. In fact it was not clear to the Presbytery and they could not know when this committee was appointed, what proceeding would be necessary or appropriate in the case of Dr. Briggs.

Let the appellee tell you what proceedings seemed to Dr. Briggs necessary and appropriate under the circumstances which emerged after the General Assembly at Detroit undertook to veto his transfer to the Edward Robinson Chair of Biblical Theology. This committee should have considered (1) whether it was appropriate or necessary that the judical investigation should be conducted by a trial in the court of the Presbytery; or whether the investigation had not some preliminary steps to take before a trial was necessary or even legal; whether it was not first necessary "*by private conference with the accused, to avoid, if possible, the necessity of actual process*" (9). This was in the mind of Dr. Sample and other members of the Presbytery.

(2). *Whether the accused ought not first to have had an opportunity to give satisfaction to his brethren in open Presbytery.* This Dr. Briggs has always claimed as his right and has repeatedly protested that it was taken from him.

(3). Whether it was not better to "wait until God in his righteous providence should give further light, than

by unavailing prosecution to weaken the force of discipline."

(4). If the committee had considered these preliminary questions it might then have recommended to the Presbytery that the necessary and appropriate proceedings were to proceed to a judicial investigation in the form of a trial for heresy.

(5). The committee had also to determine whether the doubt in their chairman's mind should be resolved, and if a trial was to be undertaken whether it should be initiated by the judicatory, or whether Dr. Birch himself should undertake it as an individual prosecutor. It was for them to recommend if they thought wise, that process should be initiated by the judicatory and that a prosecuting committee should be appointed.

(6). It is doubtful whether this committee had the right to prepare and table charges. The defendant has never challenged their right to do this, because so much was left to their discretion in the ambiguous terms of their appointment. But it was certainly optional with them whether they should table charges or not.

Thus this committee appointed to "arrange and prepare the necessary proceedings appropriate to the case of Dr. Briggs" had a sufficiently responsible task in the terms of their appointment. It was within their right to recommend, (1) that the Presbytery go to trial. (2) That the Presbytery initiate process. (3) That a prosecuting committee be appointed. (4) That the charges which they had prepared be served upon the accused.

Instead of limiting themselves to these their legitimate functions, they took all these things for granted, they set up the claim to be themselves the prosecuting committee, an original party representing the Presby-

terian Church in the United States of America, and they insisted that the Presbytery had no option in the matter but to take the decisions of this committee on these preliminary matters as final, and go on with the trial in all its stages, in any way and before any court that this committee in its extraordinary power and wisdom might determine.

These extravagant claims of this committee of the Presbytery first appeared on October 5, 1891, in connection with the printed report of the committee and their spoken words upon the floor of the Presbytery by Dr. Birch and Mr. McCook, but these claims were at once denied by Dr. Thompson, who said:

"From the reading of the Book it seems that we have no committee of prosecution yet. The committee was appointed to arrange and prepare the papers; it was not called a committee of prosecution. The committee of prosecution is to conduct the matter through every stage. Nothing of the kind is expressed or implied in the record of the Minutes."

Dr. Van Dyke also urged that the committee was not a party as against Dr. Briggs, but that the matter was between the Presbytery and Dr. Briggs.

Dr. Shiland said:

"If Dr. Briggs will answer the questions here, through the Moderator, that he answered to the directors of the Seminary, I do not see any reason why we should go on with this trial."

Dr. Alexander said:

"I do wish that this should be before the Presbytery so that we shall not be pressed into a judicial proceeding, into a trial, without the opportunity of saying whether in view of all the light now, we want to go into it, or whether we want to pause right here."

Dr. Alexander moved that,

—"the Presbytery, without pronouncing on the sufficiency of these latter declarations to cover all the points concerning which

the accused had been called in question, deems it expedient to arrest the judicial proceedings and hereby discharges the committee from further consideration of the case."

Dr. John Hall moved an amendment that:

"The Presbytery receive the report of the committee and recognize the diligence and conscientiousness of the committee; that in view of the disclaimers of distinct errors made by Dr. Briggs, subsequent to the publication of the inaugural, the Presbytery relieves the committee from its work, and at the same time expresses its disapproval of the injudicious and misleading language of the inaugural, of the spirit in which some parts of it are presented, and of the suggestion of inference against the authority of Holy Scripture, and enjoin on Dr. Briggs, their brother and co-presbyter, that such methods be not pursued by him in his place as professor."

Dr. Hall's amendment was supported by Dr. Schauffler and many others. Both of these motions were entertained by the moderator; both of them imply that the claims of the committee were not recognized by their movers, by their supporters, or by the Moderator. Dr. Hall's amendment was put and lost. Dr. Alexander's motion was lost by 64 to 62. But as Dr. Hall, Dr. Schauffler and many others voted against Dr. Alexander's resolution, it is evident that the majority of the Presbytery, with the moderator at their head, did not recognize the claim of the committee to be an original party on October 9, 1891.

The Presbytery by a majority of two allowed the committee to table charges and they were served upon Dr. Briggs. Before the meeting of the Presbytery in November, the Synod of New York met and approved the minutes of the Presbytery containing the report of the committee and the recognition of them as the prosecuting committee on the minutes. It is claimed by the prosecution that the approval of the minutes debars

further objection. But this is invalid for the reason that the General Assembly has decided in 1879 that:

"The constituted right of appeal, 'either from a part of the proceedings of a judicatory or from a definitive sentence,' and the right of complaint 'respecting a decision by an inferior judicatory,' 'either before its rising or within ten days thereafter,' cannot be in any way affected by the approval of the Minutes of the judicatory against the action of which the appeal or complaint may be taken." (Minutes, p. 613; Digest, pp. 663, 664.)

Furthermore the difference of opinion in the Presbytery on this question had been sufficiently developed and the opinion of the moderator and of the majority had been sufficiently expressed and it only needed the reassertion of the claims of the committee in a practical form on Nov. 4th to make it a definite issue before the Church. The issue was raised by a decision of the moderator after listening to Dr. Briggs that "the plaintiff on the other side had a right to answer the objections." Dr. Van Dyke raised the point of order that the committee were not an original party. The moderator decided that:

—"this committee has been properly constituted as a committee of prosecution and represents the Presbyterian Church in the United States of America as the original party," and "that its power is to carry on this case to completion."

Dr. Van Dyke entered a protest. Dr. Brown appealed from the decisions of the moderator and was seconded by Dr. Shiland. The moderator refused Dr. Briggs the floor to speak upon this question. The appeal was put and the moderator was sustained by a vote of 64 to 57. *Thus this all-important constitutional question was decided without hearing the parties, and without debate, by a moderator who had changed his mind since the previous meeting of the Presbytery*, and who came prepared

to enforce his decision. All this is contrary to the law of the Church which does not permit the moderator to decide constitutional questions, but only questions of order. A constitutional question upon which the legitimacy of the whole process against Dr. Briggs rests, was decided by the arbitrary usurpation of authority by the moderator of the Presbytery of New York. Furthermore the Book of Discipline requires that parties should be heard on all questions of order or evidence arising in the course of the trial before the moderator gives his decision. But the moderator refused Dr. Briggs a hearing on this essential question of order.

The only redress for these wrongs was by complaint to the Synod of New York. This remedy was used by the defendant and 113 other ministers and elders of the Presbytery of New York. *The Synod of New York assumed jurisdiction of this Complaint, and until it has been determined by the Synod, the General Assembly cannot legally recognize the appellants as a prosecuting committee.*

(3). The decision of the moderator of the Presbytery of New York not only gave the committee a status as a prosecuting committee, but also enabled them to proceed in the case as an original party. If the case had been initiated by the Presbytery then the Presbyterian Church in the United States of America would be the prosecutor and an original party; according to the Book of Discipline (10). But the case was not initiated by the judicatory, but by a committee of the judicatory, appointed for a different purpose, which at first usurped the functions of a prosecuting committee, and then was recognized as an original party by a mistake of many voters in the Presbytery who voted to sustain the moderator's decision, but who subsequently signed the com-

plaint to the Synod of New York against the action of the Presbytery in sustaining that decision. The question now arises, *is a prosecuting committee an original party representing the Presbyterian Church in the United States of America?*

(*a*). The Book of Discipline nowhere makes the statement that the prosecuting committee is an. original party. There is no statute law to that effect.

(*b*). There is no precedent in its favor. The common law of the Presbyterian Church is against it. The General Assembly in 1877 decided that a prosecuting committee was not an original party. The minute is:

"In the case of the appeal of Thomas H. Skinner et al from the Presbytery of Cincinnati, the committee recommend that, inasmuch as the so-called appellants were not an original party, they are not entitled to an appeal." (Minutes 1877, p. 575.)

These so-called appellants based their claim on an opinion of the Old School Assembly in 1861 that a committee prosecuting for common fame was an original party. (Moore's Digest, 563.) But this was merely an *opinion* of that Assembly. It did not take effect. For the Committee for Common Fame did not appear before them as appellants. The General Assembly of 1877 did not regard this inoperative decision of one section of the Church only, as any bar to their decision. Thus the claim that a prosecuting committee is an original party is not sustained by statute law and is opposed by a judicial decision of the General Assembly to the contrary.

(*c*). But it is urged that the new Book of Discipline intended that the prosecuting committee should be an original party. The intention of a document may be determined by the views of those who framed it, or of

those who adopted it as their own. It is reported that the original members of the committee which framed the new Book of Discipline are divided in their opinion on this subject. Two of the most distinguished ecclesiastical lawyers now living who were members of the committee on the revision of the Book of Discipline, state that the committee inserted the provision that the accusation should be brought in the name of the Presbyterian Church in the United States of America "to avoid the old and unsatisfactory provision which made common fame the accuser. It was said that common fame was a lying jade."

So far as we have been able to inquire there was no discussion on this subject before the Church or the General Assembly which adopted the new Book of Discipline, so that if such a momentous change was made in Presbyterian jurisprudence, it was made innocently and unwittingly by the Presbyterian Church.

According to the testimony of Dr. Willis J. Beecher:

"Ten years ago, and more, when the revision of the Book of Discipline was before the Church, the Presbytery of Cayuga objected to the revised Book on the ground that it was capable of being so interpreted as to give the right of appeal as against a verdict of acquittal. In its overture to the Portland Assembly, this Presbytery called attention to its action ten years ago, and simply reiterated the position then taken. One or two other Presbyteries and a few individuals took the same ground in regard to the revised Book. Their protests made no impression at the time. Men who might have been expected to take an interest in the matter took no interest in it. One reason assigned was that there was really no ground for fear that such an interpretation would be ever attempted. It was said that the nature of an appeal was everywhere understood. It was said that the danger apprehended by the protesters did not exist, inasmuch as it was absurd to think that the Presbyterian Church would ever adopt judicial processes that all mankind regard as

manifestly unjust. And so the matter went by default, without widespread or careful discussion."

Therefore so far as we can obtain evidence as to the intent of the framers of the new Book of Discipline and of the Church which adopted it, we have no sufficient reason that such a change in Presbyterian law was contemplated as the making a committee of prosecution an original party representing the Presbyterian Church in the United States of America.

(*d*). In criminal courts the public prosecutor represents the people as an original party. So it is claimed that the prosecuting committee should represent the Presbyterian Church in the United States of America as an original party. There is much to be said in favor of such an opinion. The civil law is in advance of ecclesiastical law in this respect. The time will surely come when ecclesiastical courts will not allow private prosecutors for public offences, and when all trials for heresy will be conducted by public prosecutors. When this time shall come the public prosecutors may be made an original party by the statute law of the Presbyterian Church, and the law will guard the new provision just as the commonwealth guards it from every possible abuse. But that time has not yet come. There is as yet no such statute and no such usage, and no such careful guarding. The Presbytery of New York did not contemplate such a thing when the committee was appointed to "arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs."

This committee has thrust this momentous question upon the Presbytery of New York, the Synod of New York and the General Assembly, and involved it with the merits of a great controversy and enveloped it in the excitement of party feeling so that it is exceedingly

difficult to consider this question of law upon its own merits.

We should consider that a Presbytery and a criminal court of law are not in exactly the same situation. It is therefore not altogether clear that the one should be taken as the model of the other. The Presbytery is a body composed of all the ministers and representative elders of all the Presbyterian congregations within a given district. It represents the Presbyterian Church in the United States of America within the given territory by its very constitution. Is it lawful for the Presbytery to divest itself of its responsibility as representing the Presbyterian Church in the United States of America? Can it avoid responsibility for its ministers, its churches and its other business? According to the constitution as it now is, the Presbytery is responsible to the Synod of New York and to the General Assembly for all its transactions, executive, legislative and judicial. It cannot divest itself of any portion of its responsibility by throwing it upon a committee of its own appointment. It is responsible for all of its committees. Therefore the Presbytery and the Presbytery alone must represent within its bounds the Presbyterian Church in the United States of America; it must be the party in every case initiated by it as a judicatory. The prosecuting committee represents the Presbytery in all that it does. It conducts the case as the committee of the Presbytery. It must conduct it in any way in which the Presbytery directs it to conduct it. It must begin when the Presbytery directs it to begin. It must finish its labors when the Presbytery directs it to finish. If it fail in its duty the Presbytery may censure it and disband it. It may appoint another committee in its place. It may enlarge its numbers or diminish them.

The Presbytery cannot divest itself of its authority over its committee of prosecution or shirk responsibility for its actions. If the committee of prosecution, after its appointment, indulge in a malignant spirit; if they show by their conduct of the case that they are personally interested in the conviction of the accused; if it becomes evident to the Presbytery that they have become "litigious, rash or highly imprudent" in the conduct of the case; and that they are by their actions bringing reproach upon the Presbytery and the good name of the Presbyterian Church in the United States of America; if they heap up grievances against themselves; who is to bear the blame in the higher courts for all these grievances if not the Presbytery itself? If the Presbytery has not done its duty in keeping under its direction and control a committee of its own appointment, the Presbytery and not the committee will be censured in the superior courts.

There is no statute law, there is no usage to sustain the claim that a committee of prosecution is an original party. Precedent is against it and it cannot be allowed without divesting the Presbytery of its constitutional authority and its constitutional obligations to the superior courts. The appellee and 113 other co-presbyters had no other redress against this grievance than to complain to the Synod. *The Synod of New York at its last meeting assumed jurisdiction of this Complaint and the Assembly cannot recognize the appellants as original parties until the Synod has decided that they are such.*

(4). After the Presbytery had voted to dismiss the case against Dr. Briggs on November 4, 1891, Mr. Woodbury moved that "the committee of prosecution be and the same is hereby discharged with the thanks of the Presbytery." The moderator ruled this motion

out of order on the ground that the Presbytery had sustained the moderator in his decision that the committee were an original party representing the Presbyterian Church in the United States of America. This then is the third point in the Complaint pending before the Synod of New York that the committee was recognized by the Presbytery of New York as "*virtually and practically independent of the Presbytery*," so that the Presbytery has no right to entertain a motion to discharge them. This claim of the committee to be independent of the Presbytery which appointed them is *not* involved in the questions already discussed, whether they are a committee of prosecution and an original party. As we have seen, the General Assembly of 1877 decided that a committee of prosecution was not an original party. So they might be an original party and yet not independent of the Presbytery which appointed them. The question which now emerges is whether a prosecuting committee may be independent of the Presbytery and so independent as to continue in life after the Presbytery would dismiss them and to persist in prosecution after the Presbytery has given a verdict of acquittal and has advised it to discontinue prosecution.

(*a*). There is no statute law of the Book of Discipline which makes the committee of prosecution independent of Presbytery.

(*b*). There is no precedent in Presbyterian courts in which a prosecuting committee has been recognized as independent of Presbytery.

(*c*). The constitution of the Presbyterian Church makes all committees dependent upon the judicatories which appointed them.

The statute law and the common law of the Presbyterian churches testify against this extravagant claim of the appellants in this case.

(*d*). The claims of these appellants are revolutionary and disorganizing. Here is a committee which has been acting for two years against the expressed wishes of the Presbytery which appointed them. They claim to represent the Presbyterian Church in the United States of America in appearing against their own Presbytery. They won the appeal last year against the decision of the Presbytery of New York to dismiss the case against Dr. Briggs. They are now striving to win an appeal against a decision of the Presbytery of New York acquitting Dr. Briggs of charges of heresy. Their Presbytery advised them to discontinue prosecution, and yet, in defiance of the will of their Presbytery, they continue the prosecution. It may possibly be gratifying to a party in the Presbyterian Church that there is a faithful remnant in the Presbytery of New York who will contend for sound doctrine against a majority of the Presbytery. But let this party consider that, while such contention may be lawful and praiseworthy within due bounds, when conducted by individuals and exercised in the unquestioned right of protest and complaint; yet when a committee appointed by a Presbytery for a specific purpose persists in arraigning the Presbytery whose representatives they were appointed to be, as guilty of error and wrong in refusing to go as far as this committee deems equitable,—they are exalting themselves as a committee of Presbytery above the Presbytery; they are assuming to be greater and wiser and more equitable than the Presbytery; they are rebelling against the judicatory to whose jurisdiction they are subject by the constitution of the Presbyterian Church. What would you think if a committee of your Presbytery should treat your Presbytery with such disrespect and airs of superiority, and exalt themselves against you as represent-

ing the Presbyterian Church in the United States of America?

(*e*). If the higher courts of the Presbyterian Church should ever be so unwise as to establish such an unfortunate precedent that a committee of Presbytery may act independently of its Presbytery, you will, ere long, see some strange procedure in our ecclesiastical courts. For if a committee of prosecution of a Presbytery may appeal against the Presbytery, a committee of a session may appeal against a session, and carry on the case against a defendant in all its stages until it reaches the court of last resort. If by any unwise procedure a session should appoint an ambitious elder as "a committee to arrange and prepare the necessary proceedings appropriate in the case of Mrs. A. B. C.," he would claim to be a prosecuting committee, to be an original party, to represent the Presbyterian Church in the United States of America, and he might carry on the case against an unfortunate but innocent lady in spite of the advice of his pastor and fellow elders, in spite of the advice of his Presbytery, through all the stages of litigation, and bring Presbyterian courts into contempt and shame before the world. This is a terrible power that it is proposed to put into the hands of committees of prosecution; one which may accomplish your purpose as an engine of destruction in the case of Dr. Briggs, but which, if once set in motion, will do incalculable mischief in all parts of the Church. It is safe to predict that those who vote in its favor will be the first to suffer from it in their own persons, families, and friends.

It is monstrous to suppose that a committee of prosecution may carry a case in all its stages to the court of last resort, in defiance of the wishes of the judicatory which appointed them. If a committee of prosecution

should prove to be incompetent, and show by their blunders that they were involving the case in innumerable and intricate questions of law, must the Presbytery allow them to go on in their blunders at the expense of justice and right? If a committee of prosecution, in a case of prosecution for immorality, should exhibit a lack of moral sense and a questionable integrity, must the Presbytery suffer them to go on and exhibit their wickedness before all the courts of the Church? If a committee of prosecution, in a case of heresy, should show their ignorance of sound doctrine, and as representatives of the Presbyterian Church in the United States of America should present such a parody of the doctrines of our Church as to bring the blush of shame to the cheek of the godly, must the Presbytery allow them to go on and parade their ignorance in all the courts of the Church? If a prosecuting committee should manifest in the conduct of the case that they were personal enemies of the accused, and are seeking to injure him in spite of truth and right, shall they be allowed to use all the privileges of their position as a committee of Presbytery, in the name of the Presbyterian Church in the United States of America, to injure the accused in the higher courts after the Presbytery is convinced that such prosecution should cease? If a prosecuting committee should be influenced unduly to favor the accused, to obstruct the cause of justice, pervert or keep back evidence, and in a deceitful and hypocritical manner mislead the court to unrighteousness, has the Presbytery no power to change, reconstruct, or dismiss such a committee of prosecution? It is monstrous for any judicatory to put itself in the power and at the mercy of such an arbitrary and irresponsible party as such a committee of prosecution would be.

The Complaint now pending before the Synod of New York, which is now under the jurisdiction of the Synod, raises this question whether the committee appearing before you in these appellants is independent of the Presbytery or not. You cannot lawfully consider them as such until the Synod has given its decision in the case.

(5). The question of the original party and the questions associated therewith were brought before the Synod of New York at Albany by the Complaint signed by 114 ministers and elders of the Presbytery of New York. The Synod found the complaint in order, took jurisdiction of the same, listened to arguments, debated the matter, and resolved that:

"It is inexpedient to take action at the present time for the following reasons:

"*First.* The case, through the action of the General Assembly and the Presbytery of New York, is again before the Presbytery, and the complainants may there have their remedy in their own hands.

"*Second.* In case the remedy there be found insufficient they will afterward have opportunity, by appeal or complaint, to bring the matter again before the Synod."

There is in the hands of the Judicial Committee, as they have reported to you, a Complaint to the General Assembly against the action of the Synod in finding the Complaint in order, giving you the best evidence that the Complaint is alive before the Synod. This Complaint you have referred to a Judicial Commission for trial.

The fact that all of these matters complained of are now through the action of the Synod of New York under the jurisdiction of the Synod and have not yet been decided, is a sufficient reason why the General Assembly cannot recognize the appellants as an original party and so qualified to appeal.

On Nov. 9, 1892, Dr. Briggs appeared before the Presbytery of New York in accordance with the advice of his Synod and made the following preliminary objection:

First. A Committee originally appointed "to arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs" appears before you claiming to be a Committee of Prosecution, and they are recognized as such by the Moderator's giving them the floor to act in that capacity. But their right so to act is legally questioned by complaint to the Synod of New York, and it has not yet been lawfully determined by the Synod.

Second. This Committee appeared before the last General Assembly as an original party, and acted as such by presenting an appeal against the judgment of the Presbytery in dismissing the case against me. They now appear before you as an original party successful in their appeal. Their right to act as an original party is questioned in the said complaint, and it has not yet been lawfully determined by the Synod.

Third. This Committee claim to represent the Presbyterian Church in the United States of America, and to be independent of this Presbytery which appointed them. They acted independently of the Presbytery by appealing to the General Assembly against the judgment of the Presbytery in dismissing the case against me. They now appear before you with a reversal of the judgment of the Presbytery which they have obtained. Their right to act independently of the Presbytery is questioned in the said complaint, and it has not yet been lawfully determined by the Synod.

Fourth. This Committee appear before you having acted, as is claimed, in violation of the constitution of the Church, which provides that when a complaint has been signed by more than one-third of those present and voting in the Presbytery, it acts as a stay to further proceedings. The above-mentioned complaint, signed by a majority of the voters, has been filed with the Synod of New York, and has been found in order by the Synod of New York, and is now in possession of the Synod of New York. Until the questions raised in said complaint have been determined, this Committee cannot legally take any action in the matters complained of. They cannot act as a Prosecuting Committee, or

as an original party, or as independent of the Presbytery; and you cannot allow them so to act without a violation of the law of complaint embedded in the constitution of the Church.

Inasmuch as the Synod of New York suggested that the complainants, being according to the number of signers in the complaint, a majority of the Presbytery, may have the remedy in their own hands, the Presbytery are respectfully requested to apply the said remedy and, in accordance with the provision of the Book of Discipline, to determine these preliminary objections which I hereby file. C. A. Briggs.

Dr. Briggs, in order to save the time of the Presbytery, offered not to argue on the objection provided the prosecution did not argue. The moderator of the Presbytery of New York permitted the prosecution to argue; but when Dr. Briggs claimed his right to argue in behalf of his objection, he was ruled from the floor by the decision of the moderator that his preliminary objection was out of order on the ground that the General Assembly at Portland had decided the matter in favor of the prosecution. The moderator was sustained by a majority of the Presbytery on an appeal from his decision. Let the court observe that the moderator undertook to decide a question of fact, namely, what the General Assembly at Portland had done, and he decided it erroneously as has been clearly shown. But whether right or wrong the moderator had no right to decide this question. It was a debatable matter and was presented for debate in the preliminary objection of Dr. Briggs which he had a right to make. Against this action the defendant gave notice of appeal and complaint to the Synod of New York. Inasmuch as he could not appeal from an acquittal he was limited to his Complaint, which reads as follows:

[This Complaint will be found in The Case against Prof. Briggs, Part II., pp. 21–28.]

The defendant has sought every lawful remedy against the unfortunate action of the majority of the Presbytery of New York in sustaining these unlawful decisions of the moderator in favor of these appellants as a committee of prosecution, an original party, and as independent of the Presbytery. The defendant was in hopes that the Synod of New York would determine these questions before the Presbytery reopened the case in accordance with the decisions of the last General Assembly. But the Synod of New York, for reasons best known to the Synod, decided to wait for further action by the Presbytery. The Presbytery has taken action; it is now for the Synod to give its decision. The General Assembly cannot intrude into the functions of the Synod in this particular, for the Synod has present jurisdiction of the case. *You cannot at present recognize the appellants as a party, for their status as such is challenged by the Synod of New York.*

(6). The appellants forced their Appeal before the General Assembly at Portland, notwithstanding their knowledge of the Complaint signed by 114 ministers and elders of the Presbytery of New York which was lodged with the stated clerk of the Synod ere the case was brought before the General Assembly for its decision. This Complaint was strictly in accord with the Book of Discipline, which states:

"Whenever a Complaint, in cases non-judicial, is entered against a decision of a judicatory signed by at least one-third of the members recorded as present when the action was taken, the execution of such decision shall be stayed, until the final issue of the case by the superior judicatory." (85.)

As was said at Portland:

"It is evident that a vote of the Presbytery of New York, sustaining a ruling of the moderator in an inter-

pretation of our Book of Discipline, is a non-judicial decision." Therefore, this Complaint ought to have acted as a stay until the Synod had decided the whole question of the original party. The prosecution argued before the last Assembly after the appellee had exhausted his right of speech and when he had no right of reply, and again before the Presbytery of New York on the occasion when the Presbytery refused him the floor for argument, that inasmuch as the majority of the names were attached to the complaint after the ten days allowed by law, that it could not act as a stay. This superficial objection, to which the appellee was not allowed to reply, doubtless influenced the last General Assembly and also the Presbytery of New York. But its invalidity is evident, for the law is not that two-thirds of the vote shall be attached to the notice of complaint, but to the complaint itself. The notice of complaint must be filed within the ten days, and it is sufficient that it be signed by the chief complainant on behalf of himself and others. But the complaint itself need not be filed before the second day of the next ensuing meeting of the superior judicatory. The names were all attached to the document placed in the hands of the stated clerk of the Synod of New York in May, five months before it was necessay that they should be attached. It is the complaint signed by two-thirds which acts as a stay, and not the notice of complaint. The requirements of the law of stay were fully satisfied in this complaint, and it ought to have stayed the General Assembly at Portland, and the Presbytery of New York, from any further action in the case until the complaint was determined by the Synod of New York. The law of stay still attaches to this same complaint which is now alive under the jurisdiction of the Synod of New York. It stays

this Assembly and all parties and courts until the Synod has acted. *And now that the Synod has found this complaint in order, and has assumed jurisdiction and postponed action until next October, you are stayed from action, not only by the law of stay, but also by the fact that the Synod of New York has taken the appellee and his co-complainants under its protection. It interposes the shield of its jurisdiction and authority, and the General Assembly cannot take the case out of its hands.*

IV.—THE APPEAL CANNOT BE ENTERTAINED WITHOUT USURPING THE JURISDICTION WHICH AT PRESENT BELONGS TO THE SYNOD OF NEW YORK.

(1). *It is a rule in law that appeals shall be made gradatim, and not per saltem.* It is the rule of canon law and of civil law that there shall be no leaping of intermediate courts, but that the process should take its regular course through the courts in their order and grade of ascent. This rule is recognized in the Book of Discipline which prescribes that: "*Appeals are, generally, to be taken to the judicatory immediately superior to that appealed from.*" (102.) The court immediately superior to the Presbytery of New York is the Synod of New York. The appellants ought to have followed this rule. If they have valid grounds of appeal from a final judgment of the Presbytery of New York, if they are an original party and it is lawful for them to appeal against a verdict of acquittal, they ought to have made their appeal to the Synod of New York.

It is true that this rule admits of exceptions. The adverb "*generally*" is the loop-hole through which they propose to go. But this loop-hole is not large enough to admit an appeal which is so great in its pretensions and so immense in its train of consequences. The appel-

lants are obliged to present reasons why you should entertain an appeal which according to this rule should generally go to the Synod. They must give exceptional reasons in order that this appeal may be an exceptional case. Such exceptional reasons must be within the limits of the law and usage of the courts of the Presbyterian Church. They must not abridge the rights and privileges of the appellee. They must be equitable in themselves, and of such a character as to furnish a safe precedent. It is not sufficient that the exceptional reasons shall be in the interest of the appellants. If they are against the interest of the appellee you cannot lawfully consider them. It is not sufficient that they are in the immediate interests of the Presbyterian Church. If they would violate precedent and law, if they would establish a new and dangerous precedent, you cannot safely sacrifice the permanent interests of the Church for any transient and temporary advantage.

We shall first consider the reasons why this appeal cannot legally take advantage of the adverb "generally," and then test the reasons presented by the appellants for bringing their case before the General Assembly.

(2). *There are no precedents to justify this Appeal.* There is only one case given in the Digest in which the General Assembly recognized exceptional reasons for leaping the Synod prior to 1870. This was the case of Mr. Bourne in 1816, in which the sentence of the Presbytery of Lexington deposing him from the ministry was reversed and a new trial ordered. But in this case the Synod of Virginia stood upon its rights and censured the Presbytery of Lexington for allowing an appeal from their decision directly to the Assembly. This precedent is therefore a doubtful precedent. It did not gain the consent of the Synod which was leaped. It is doubt-

ful whether the General Assembly acted lawfully in this case. The Synods, especially in those regions where a higher type of Presbyterianism was maintained, did not look with complacency upon this intrusion upon their jurisdiction. There was no repetition of leaps of Synods until 1870. The Southern Presbyterian Church took pains in their Book of Discipline to make such a leaping of the Synods an impossibility by the law:

"*No appeal shall be carried from an inferior to any other court than the one immediately superior, without its consent.*" (259.)

The practice of the General Assembly has been either to dismiss appeals which have leaped the Synods or else refer them to the Synods for adjudication. A few examples will suffice.

(1). Two appeals of Samuel Lowrey were dismissed in 1822 "because the appellant had not prosecuted his appeals before the inferior judicatories."

(2). Matthew H. Rice had leave to withdraw his appeal in 1830, on the ground that "no reasons are assigned by the appellant for making this appeal to the General Assembly instead of the Synod."

(3). The church at Cooperstown "had leave to withdraw their appeal in 1834, and prosecute it before the Synod of Utica."

(4). John Turbitt, in 1859, had leave to withdraw his appeal from the decision of the Presbytery of Peoria, deposing him from the ministry, "because the case had not been presented before the Synod."

(5). The papers in the case of the appeal of Francis M. Denmick in 1872, were returned to the parties presenting them, "that they may be adjudicated by the Synod of Iowa, South."

The reluctance of General Assemblies to entertain

appeals directly from presbyteries may be seen in the case of the Presbytery of Philadelphia in 1870 against the Presbytery of Luzerne for an alleged invasion of Presbyterial jurisdiction. A special reason was given in this case, namely, "because of these presbyteries having no common synodical relations." They belonged to different synods. No synod could judge between them. It would seem, therefore, that this was an appropriate case for the General Assembly. But the Assembly preferred another way. A new synod had been organized, which embraced both presbyteries. Therefore the General Assembly proposed that "the new synod take up the case and that the Presbytery of Luzerne cease all action until the synod decides."

So much was this the established usage of the Presbyterian Church that in the Barnes case, when the whole Church was excited to an extraordinary degree, and when, if ever, a speedy settlement of the issue was desirable, Dr. Junkin courteously asked Mr. Barnes and the Presbytery to agree harmoniously in carrying the case directly to the Assembly. But when Mr. Barnes declined, Dr. Junkin recognized the right of his opponent and appealed to the Synod of Pennsylvania. Such courtesy has been conspicuous by its absence in the case against Dr. Briggs.

Since the reunion there have been two exceptional cases in which the General Assembly allowed the appellants to leap the Synod. One of these was the case of the Rev. W. W. McLane. This was an appeal of a defendant against the final judgment of his Presbytery condemning him as guilty of heresy. This case was not tried because the appellant was granted leave to withdraw his appeal. It is a precedent still more doubtful than that of Mr. Bourne in 1816. But even if these two

cases of appeals of defendants should be regarded as valid precedents, they do not justify the leaping of the Synod and the entertainment of an appeal of a prosecuting committee against a verdict of acquittal. These two appeals of Bourne and McLane were exceptional because a minister had been deposed. As was said a a year ago:

"All law protects the innocent and gives the presumption to the defendant. A minister who has been declared guilty by a Presbytery might suffer serious injury if an appeal had to go in its regular course through the Synod to the General Assembly. Such a man might prefer a speedy decision of his case by the supreme court, and waive his right of appeal to the intermediate court. But a prosecutor is in a different situation. He suffers no injury by delay. He is deprived of no right by the trial of the case before the intermediate court in the regular way. There is no reason why he should insist upon a speedy determination of the case."

The other exceptional case was the action of the General Assembly at Portland last year in which they permitted these appellants to leap the Synod of New York and entertained the appeal against the Presbytery of New York in dismissing the case against Dr. Briggs. This decision was influenced if not determined by the opinion of the moderator of the last Assembly, who seems not to have known of the usage of the supreme courts of the Church, when in an answer to a question, he said: "In my mind there is no constitutional provision by which, without a new trial, this appeal could be sent to the Synod of New York." (Case, p. 11.) In fact, as we have seen, the General Assembly has more than once sent appeals to synods. But this leaping of the Synod of New York last year has not yet received the consent of the Synod of New York, for the Synod of New York has taken jurisdiction of a Complaint which

if sustained renders the decision of the last Assembly null and void, and makes the whole process since the dismission of the case by the Presbytery unlawful.

But even if the action of the General Assembly at Portland should be regarded as final, constitutional, and a lawful precedent, it is no precedent for the present appeal, for that was an appeal against a dismissal of a case, and aimed at a new trial,—this is an appeal against a final judgment in a case, and against a verdict of acquittal and it aims at a reversal of the acquittal and a final judgment of condemnation for heresy with a sentence of suspension or deposition. *There is no precedent whatever for the leaping of the Synod by such an appeal.*

(3). *It is against the policy of the Presbyterian Church that there should be a leaping of the court of the Synod.*

In 1882, a great advance was made in reconstructing the Synods, so as to increase their efficiency, dignity, and influence. They were enlarged and made State Synods. Many of them, like the Synod of New York and the Synod of Pennsylvania, became so large that their commissioners are delegates from the Presbyteries. The law was passed making the "decisions of the Synod on appeals, complaints, and references, which do not affect the doctrine or constitution of the Church," to be "final" (Form of Government, XI. 4). The Synods have thus become judicatories of vastly more importance than they used to be. Will this General Assembly now take action which will decrease their dignity, influence, and power? If the Synod of New York, the largest of the Synods, may be overleaped to-day for the sake of a speedy settlement of the case of Dr. Briggs, what Synod in the Church can hope to escape to-morrow when some other ambitious prosecutor may

urge the speedy settlement of the case of some other alleged heretic? It is easy to see that if this change of policy takes place, the Synods will lose far more than they have gained in 1882.

If the General Assembly entertain this Appeal, they will break down the barriers of our constitution, which guarantees the rights of the Synods; they will so enlarge the loop-hole of exceptional cases that exceptions will hereafter be the rule; they will drive a coach and four through the breaches in the palace of justice, and expose it to the depredations of every ambitious litigant. For if it be lawful to leap the Synod in the interest of defendants, as in the McLane case and the Bourne case, and now in the interest of prosecutors in the Briggs case, both in an appeal against a dismission and in an appeal against a verdict of acquittal, there can be no barrier to prevent the leaping of the Synod in any case hereafter, and you may inscribe your decision with the name Ichabod, for the glory of the Synod will have departed from it.

(4). *If you should entertain this Appeal, you would deprive the defendant of his right to appear before the court of the Synod.* The defendant has reason to believe that the appellants fear to bring their case before the Synod of New York. They have reason to dread lest their appeal against the verdict of acquittal will not be entertained by the Synod. The defendant has great confidence in the Synod of New York that it will do him justice, and that its decision will be just and right. It is his constitutional right to go before the Synod. His city of refuge against these prosecutors is the Synod of New York. The General Assembly has no constitutional right to obstruct him from seeking refuge with the Synod. He casts himself into the arms of the Synod

of New York, in the confidence that the Synod will shield him from any injustice and wrong that may be done him. He claims the jurisdiction of the Synod, and denies that the Assembly has any present jurisdiction of the case. What right have you under the constitution to deprive him of this right? What precedent have you to justify you in refusing him this right? What principle of equity can you plead for such a violation of individual rights? You would do a wrong unparalleled in the history of Presbyterianism, a wrong which could be equalled only in the annals of the inquisition. The defendant will use every remedy that the civil and ecclesiastical courts will give him, rather than submit to such a wrong.

(5). *If you should entertain this Appeal, you violate the constitutional rights of the Presbytery of New York.*

The Presbytery has not given its consent to leap the Synod of New York. The Presbytery has the right to claim the vindication of the Synod of New York against these prosecutors. These appellants appeal against the final judgment of the Presbytery of New York. They ask you to condemn the Presbytery and reverse their final judgment. Commissioners from the Presbyteries represented in this General Assembly, look the situation in the face! Apply to it the Golden Rule of our Saviour. What would you think of it if a committee of your Presbytery should force your Presbytery for trial before the General Assembly without its consent? What would you think of it if your Presbytery should be deprived of its rightful defence before the Synod? If you listen to the Appeal of these prosecutors, you will establish a precedent that will vex you in your own Presbyteries before many days. It is doubtful whether the Presbytery of New York, and the other Presbyteries which

compose the Synod of New York, will submit to such an act of violence and wrong.

(6). *You cannot entertain this Appeal without depriving the defendant and his co-presbyters of the right of complaint, which is guaranteed to them in the constitution.* The only remedy the defendant and his co-presbyters had against unjust and unlawful action of the Presbytery of New York was by complaint to the Synod of New York. If the verdict of the Presbytery had been against him he might have appealed. But he cannot appeal against a verdict of acquittal. Therefore he was limited to complaints, and complaints can only be made to "the next superior judicatory" (83), the Synod of New York. He and his co-presbyters gave notice of several complaints, which it is their intention to prosecute before the Synod of New York at its next meeting. One of these has already been called to your attention. These are the other complaints made against the interlocutory decisions of the Presbytery:

[These complaints are given in *The Case against Prof. Briggs*, Part II., pp. 69–77.]

These complaints are against interlocutory judgments of the Presbytery, and have to do with the very foundations of the case. If the Synod recognize the validity of these complaints, the prosecutors have no case against him, and any decision this Assembly might make, if they should entertain the Appeal and then sustain it and reverse it, would be null and void through the reversal by the Synod of these interlocutory judgments of the Presbytery of New York. The defendant and his co-presbyters have the constitutional right to make these complaints. That was the only way in which they could bring these unjust and unlawful proceedings of the Presbytery before the superior courts. The Synod has a

right to entertain them and determine them. The Synod cannot refuse the complainants their right of a hearing and of a decision. If the Assembly entertain this Appeal without considering these complaints which cannot legally be brought before you, you cannot have the whole case of Dr. Briggs before you, you will have only an *ex parte* and a partial statement of the case, you would on the one hand deprive him of his legal right of complaint, on the other hand you would run the risk of making an *ex parte* judgment.

The court should be on their guard lest they do gross injustice by such a procedure.

The defendant made a number of preliminary objections before the trial began. The Presbytery sustained four of these objections. This gives the appellants seven of their grounds of appeal. But the Presbytery overruled five of these objections and the only redress the defendant has is in his five complaints to the Synod of New York. Will you review four of these objections in the interest of the appellants when you cannot review five of these objections in the interest of the appellee? Will you entertain their Appeal against the procedure of the Presbytery so far as it favors the defendant when you cannot entertain his complaints against that procedure so far as it favors the prosecution? Will you entertain their Appeal against his evidence when you cannot entertain his complaint against their evidence? Surely no court of law could do such flagrant injustice.

(7). *You cannot entertain this Appeal without assuming jurisdiction of a case which is now lawfully under the jurisdiction of the Synod.* The Assembly have already been informed that the Synod of New York has assumed jurisdiction of a complaint signed by 114 ministers and elders of the Presbytery of New York, which was pre-

sented at the meeting of the Synod in October last. It would be an unconstitutional and revolutionary procedure for you to assume jurisdiction of this case, which could not be recognized as valid by the Synod of New York and which could not prevent the Synod from proceeding with the case in the constitutional way. Therefore even if you should make your final judgment and reverse the final judgment of the Presbytery of New York, it could not yet be a final judgment, for the defendant, the Presbytery of New York, and the Synod of New York could not regard it as constitutional or valid.

(8). *The law of the Church is that Appeals should be consolidated with Complaints.* The law is: "If a case should be carried to an appellate judicatory by both appeal and complaint, the same should be consolidated for trial, if deemed proper by the appellate judicatory." (93.) It is impossible to comply with this law unless the appeal go where the complaints are, for complaints cannot legally leap the Synod even if an appeal may. You may send the appeal to the Synod of New York. But by no process of law can this Assembly entertain the complaints. Therefore the only way in which the Appeal and the Complaint can be consolidated, is for the Assembly to advise the prosecution to proceed to the Synod with their Appeal.

(9). *It is unlawful and it is inequitable to review a final judgment before the interlocutory judgments complained against have been reviewed.*

These Complaints now under the jurisdiction of the Synod of New York, or to be brought before the Synod at its next meeting, are complaints against interlocutory judgments of the Presbytery of New York. The only way in which these interlocutory judgments can be reviewed is in the court of the Synod. If these interlocu-

tory judgments of the Presbytery should be reversed, the final judgment would be null and void. Therefore the General Assembly must wait until the Synod has determined these complaints against the interlocutory judgments, before it can entertain an appeal against the final judgment. That is the voice of law and of precedent and of the common sense of mankind.

For all of these reasons you cannot entertain this Appeal without violating the rights of the Synod of New York; and without interfering with the rights of the defendant and of the Presbytery of New York to a hearing before the Synod of New York.

To encroach upon these reserved rights of the defendant and the lower courts would be to do such an unparalleled wrong that they would be justified in resisting it to the utmost extremities in the civil and ecclesiastical courts.

It seems almost incredible that the General Assembly now in session in the capital of our country, the fountain of law for our nation, in full view of all these monuments of constitution, and of law, and of order, could even consider the propriety of committing such a wrong and running such a risk, which at the utmost can only save a year of time and bring by a hasty decision to a final issue a case which may be brought to a final issue without violence and without wrong by the next General Assembly.

The system of law which governs the courts of the Church has developed in harmony with the system of law which governs our native land. Its stately structure has been erected by the piety, the wisdom, the industry and the experience of many generations. All the

great nations of antiquity have contributed to its material. Moses and the prophets, Draco, Solon, and Lycurgus, the Ten Commands and the Twelve Tables, the Pandects and the Institutes, the Canonists of the Church, and the Jurists of the Modern State, have united in the building of the palace of civil and ecclesiastical law. God forbid that the appellee should stain any one of the precious stones of its structure. He would gladly suffer injury and even wrong rather than violate any of its sanctities. Under its stately roof and in its ample enclosures there is peace and safety and right. We have looked upon its foundations of justice. We have studied its pillars of right. We have examined its courses of equity. How dare we disturb a single one of them? Surely you will not tear down one stone after another of this sacred pile in order to gratify the vain ambition of these prosecutors and give them a victory at such a cost to every one but themselves.

V.—WHAT REASONS DO THEY GIVE YOU FOR DOING SO MANY AND SO GREAT WRONGS, FOR INCURRING SUCH GREAT PERILS, AND FOR ESTABLISHING SUCH DANGEROUS PRECEDENTS?

If a revolution be necessary in order to purge the Presbyterian Church, and a return to chaos be their aim in order to destroy what they call heresy, they should present the best of reasons for such extreme measures. We have listened to their reasons. They have been before you for many months in their printed Appeal. You have had ample time to reflect upon them. Possibly other reasons are kept in reserve to bring before you after the appellee has exhausted his privilege of the floor, which they think they may then impose upon you

without imperilling their validity. They have used but half an hour in their opening. They gave little that is worthy of attention. They act against the usage of all courts in reserving their argument until it may be safe from the criticism of the appellee. The appellants have shown great skill in such tactics. But if you should allow them to go beyond their privilege of rebuttal and bring in any additional reasons, you will doubtless find that those which we shall test are a fair sample of the whole.

(1). The appellants claim that

"If the Appeal should go to the Synod of New York and be passed upon by that judicatory when the case reaches the General Assembly by appeal from the decision of the Synod, all of the Presbyteries constituting that Synod would be excluded from representation in the final determination of these important questions. If the Appeal goes directly to the Assembly, the Commissioners from only one Presbytery in the entire Church would be excluded from sitting, deliberating and voting in the final decision. In the Synod of New York there are thirty-two Presbyteries, nearly fifteen per cent. of the whole number of Presbyteries in the Church. Inasmuch as all these Presbyteries, excepting one, would be fully represented and heard in the General Assembly, and the General Assembly alone can give a final decision, we believe the time and the interests of the Synod of New York will be best conserved if the Assembly should entertain the Appeal according to the Committee's request."

It is greatly to be regretted that the majority of the Judicial Committee should have used this argument in their prejudgment of the case.

This is specious and plausible, but all the more suspicious on that account. At the last General Assembly the appellants represented that they would prove to be the best friends of the appellee and that it was his interest that he should be tried in the court of the Presby-

tery. They had their way. The trial has taken place and now they appeal against the verdict of acquittal. Such friends have been sufficiently well known to the world since the story of Job. These same prosecutors now represent that it is in the interests of the Synod that they leap the Synod. But who made these appellants the attorney to plead the interest of the Synod of New York? It will be time enough for them to represent the interest of the Synod when they have received a commission from the Synod. The Synod of New York has rights and duties in the case. It is for the Synod and for the Synod alone to say whether it will consent to be leaped. The Synod did not give its consent last October. It is doubtful whether it will give its consent next October.

It is true that there is an apparent unfairness in excluding fifteen per cent. of the Church from the court of last resort. But if the Synod should be excluded will it injure the appellants or the appellee? The appellee is willing to trust his Synod and to run the risk. He is the one who is most deeply concerned. He is the only one who risks his ecclesiastical life. If he is willing to take the risk, why should the appellants be so anxious to avoid it?

But it is not so clear that the representatives of Presbyteries within the bounds of the Synod of New York would be excluded from a vote in a final decision of the supreme court. The representatives of the Synod would be excluded, all members of the Synod would be excluded. But it should be considered that the Synod of New York is a body of delegates and that it would be quite easy for the Presbyteries within the bounds of the Synod of New York to send as their commissioners to the Assembly, ministers and elders who were not mem-

bers of the Synod of New York and who took no part in the proceeding of the Synod, and so would not be excluded from the final vote in the General Assembly. There may be a difference of opinion about this matter. But certainly no law or precedent would exclude them. This reason for leaping the Synod therefore is without force. There is no difficulty such as is alleged; and if there were, it would be far better to face the difficulty and suffer from it, than do the vastly greater wrong of intruding upon the reserved rights of the Synod of New York.

(2). Another reason given by the appellants for the entertainment of their Appeal is:

"Believing that the trial of the said Dr. Briggs is one of the most important in the history of the Presbyterian Church, by reason of the dangerous errors alleged to be contained in the Address of the said Dr. Briggs."

Dangerous errors are still alleged against the Inaugural Address of Dr. Briggs, notwithstanding his acquittal by the Presbytery of New York. These appellants are doubtless sincere in their allegation. But the presumption is against them. These may be reasons to justify them in their course before the bar of their own consciences, but they are not reasons why you should entertain their Appeal and leap the Synod of New York. You may in your private opinion think that there are dangerous errors in the Inaugural of Dr. Briggs. But you cannot legally as judges in the case take that for granted. The Presbytery of New York having acquitted him of teaching dangerous errors, Dr. Briggs is *rectus in curia*, and must remain so until the verdict is reversed. You cannot reverse it as judges before you have tried the merits of the Appeal. You cannot try the merits of the Appeal when you are considering the

legal grounds for and against the entertainment of the Appeal. The appellants in this reason are asking you to join with them in prejudging the whole case and therefore their reason is invalid. It cannot legally be considered at this stage.

It is alleged that these dangerous errors make the case "one of the most important in the history of the Presbyterian Church." The appellee thinks that they exaggerate the importance of the case. If the case has become so important it is not because of the doctrinal issues that are at stake; but because of the violations of law which have already taken place, and which it is proposed still further to make in order to accomplish the purpose of a party in the Church and win from the General Assembly new definitions of dogma. The doctrinal issues are certainly important. It is not proper to consider their merits here. But it is proper for the defendant to call attention to the fact that he has always claimed that the doctrinal differences are extra-confessional questions, and that the Presbytery of New York in its final judgment asserts that "it does not find that the defendant has transgressed the limits of liberty allowed under our constitution to scholarship and opinion."

But granting for argument's sake that the defendant and his Presbytery may be wrong in this matter and that the appellants are right, they would still have no reason to leap the Synod of New York Was not the case of Albert Barnes fully as important from the point of view of 1835? And yet Dr. Junkin, the private prosecutor, carried it to the Synod. Was not the case of Dr. Lyman Beecher, Professor of Theology in the Lane Theological Seminary, fully as important from the point of view of 1835? And yet Dr. Wilson, the private prosecutor, did not venture to leap the Synod and appeal to

the General Assembly. If the cases of Albert Barnes and Lyman Beecher had to go on *gradatim* in the midst of the controversies of the Church in 1835–1837, why should the case of Dr. Briggs be *per saltem* in the controversies of the last decade of the 19th century?

(3). A third reason given by the appellants for leaping the Synod is:

"Believing that the distinct and definite condemnation of those alleged errors by the Supreme Judicatory of the said Presbyterian Church, is necessary in order to prevent their spread and influence in the denomination."

This reason brings out the aim of the appellants in this Appeal. They desire that there should be a distinct and definite condemnation of the alleged errors of Dr. Briggs. But how can the General Assembly condemn them unless they are proved to be errors? How can they be condemned as errors in an unlawful manner? Unless they are condemned in the forms of law who will respect such condemnation? If the process had been carried on in the forms of law, according to the constitution, and if in a constitutional way Dr. Briggs had been condemned, he would have submitted to the law in its constitutional application to his case. But can you ask him to submit to any illegal procedure, or to unconstitutional action? The General Assembly may go on and by a majority vote override all the safeguards of the constitution and do unprecedented wrong to the defendant, his Presbytery and his Synod, and condemn his views as errors. But would those who are condemned by so unrighteous procedure respect it or obey it? If they refuse obedience, *how can you compel them to obey? You have no other power than moral power. If you become immoral in your actions you destroy your moral power and it becomes worse than inoperative.* The

appellants say that: "The delay in reaching an ultimate decision through an appeal by way of the Synod could not be less than a year, during which the character of instruction given our candidates for the gospel ministry might be unfavorably affected."

But suppose that the appellants should win their case and you should condemn the Inaugural as containing hurtful errors, would that condemnation affect the character of the instruction given to candidates for the ministry? Who believes that it would? The only effect of the adverse action taken hitherto has been to call the defendant to the defence of his Inaugural and win him the support of a host of friends all over the land in defence of the rights of scholarship and opinion.

If this General Assembly should overcome all the right of the defendant and do him the wrong of reversing his acquittal by the Presbytery of New York, is there any likelihood that the defendant would yield his opinions? Do you suppose that Dr. Briggs would cease his teachings on the mooted questions? Would candidates for the ministry cease to attend upon his instructions? You know well enongh that none of these things could happen. Your decision would be a *brutum fulmen.* It could have no other effect than to call a multitude to arms, in a life-and-death struggle for truth and for right.

If on the other hand you should send this case where it belongs, to the Synod of New York, and then in the regular course of procedure within the limits of our constitution and with the guarding of all rights, the supreme court should eventually condemn Dr. Briggs and exclude him from the ministry of the Presbyterian Church in the United States of America, the defendant would acquiesce in the result and would seek authority to exercise his ministry from some other Church of Jesus Christ.

What matters it if it take another year? If the Assembly direct these appellants to take their appeal to the Synod of New York, the appellee will not question their right so to do, nor object to the appeal on the ground that it was not first taken to the Synod. The General Assembly has an evident right, as he has argued, to send the case to the Synod and the Synod will be obliged to hear the whole case; and whatever the Synod may do, it will certainly come before the next General Assembly, and a final decision may be then reached. The Church of Scotland took fifteen years to decide the case of Prof. Simson. Far better that you should take one more year in the thorough sifting of this case, than violate law and order and equity, and confront a revolution and a religious war.

The defendant agrees to the principle so far as he is concerned: "*Fiat justitia, ruat cœlum.*" But he is not willing that the *cœlum* of the Presbyterian Church should fall in the interests of injustice and wrong. He will do his utmost to prevent such a calamity.

(4). The fourth reason presented by the appellants for leaping the Synod is:

"Believing that a special responsibility rests upon the General Assembly which is charged with the duty of deciding in all controversies respecting doctrine; of reproving, warning or bearing testimony against error in doctrine in any Church, Presbytery or Synod, and in cases that effect or concern the promotion of truth and holiness through all the Churches under its care."

The General Assembly has a special responsibility as to these matters when they are brought before the General Assembly in a legal manner. But so have the Synod and the Presbyteries each in their order special responsibility for those matters within their respective bounds.

Such responsibility rises *gradatim* and cannot be assumed *per saltem.*

It is not for the General Assembly to usurp that special responsibility which belongs to the Synod of New York. The special responsibility of the General Assembly begins when the Synod of New York has given over the responsibility to the General Assembly in the legal forms of Review, Reference, Complaint, or Appeal, based on the decisions of the Synod. *The special responsibility of the General Assembly does not begin until the Synod has exhausted its special responsibility.*

The fallacy of the whole prosecution is wrapped up in the opinion that, the General Assembly has the right of determining finally all questions of doctrine. The Presbyterian Church is a constitutional Church in which all its representative bodies have their duties specified and restricted. The General Assembly is no more omnipotent in the Presbyterian Church than the Congress of the United States is in the affairs of the Nation. The General Assembly has the authority to act under the constitution in the forms of the constitution and to determine all constitutional questions, but no others. It may determine all doctrinal questions so far as they belong to the system of doctrine taught in the Westminster Confession, but not a step further. The General Assembly has no authority to determine questions of doctrine which are beyond the range of the definitions of the Westminster Confession. If the General Assembly should do this it would violate the constitution. The constitution prescribes a way in which the Presbyterian Church may change its doctrinal system, whether by addition or subtraction, or by transformation. This can be done by two-thirds of the Presby-

teries. It belongs to the reserved rights of the Presbyteries to make new definitions of Law and of Doctrine. It cannot be exercised by the General Assembly. If therefore the General Assembly should undertake to decide extra-confessional questions of doctrine, such as are in dispute in the case of Dr. Briggs, it would make an unconstitutional decision which would be *ipso facto* null and void. No one would be under any obligations whatever to obey it. What can be gained by such decisions other than widespread dissatisfaction, which might result either in a public struggle to obtain counter decisions in subsequent Assemblies, or in secret resistance waiting for better times, or in schism and disruption? The Presbyterian Church is engaged in a great revision movement which seems to be turning in the direction of a new Creed. Is it not far better for the Church to direct its energies for the securing new definitions of its faith on these mooted questions in the case of Dr. Briggs, in the constitutional way, or else leave them to the battle of scholarship and opinion?

(5). The last reason given by the appellants for leaping the Synod in order to the entertainment of the Appeal is:

"In view of the desirableness of the speediest settlement of this most important case, do hereby appeal to and request your Venerable Body to enter immediately upon the consideration and judicial investigation of the appeal hereby presented, to issue the case, and to finally determine the important questions involved, so as to secure the purity and the peace of the Church at the earliest possible day."

They ask you to make haste and settle the dispute at the earliest possible day. The defendant is more anxious that the case should be speedily settled than

the appellants can be. He has so many important engagements to fulfil that the contest for his own rights has already cost him more than they are worth to him. If he could honorably retire from the contest he would count it a privilege to do so. But greater interests than his own interests are at stake. He is called to be the standard-bearer in a battle for truth and right. He cannot return his sword to its scabbard until truth and right have won. The appellants have forced him before the courts of the Church. They have compelled his attendance upon this venerable body. They are urging you to make haste, to hurry on to a decision and to rid them of their adversary. Such haste might be appropriate in a court-martial, where the public good required the court to run great risks of doing a lesser individual wrong rather than run the risks of doing a greater public injury. But such haste is indecent in courts of law.

Justice does not hasten. It moves on majestically and silently like the stars in their courses. It pulls steadily and irresistibly like the force of gravitation. Right does not speed, because it is sure of ultimate vindication. Truth does not hurry, for it has no anxiety about the future. It is falsehood which dreads the future. It is wrong whose hands haste to mischief. It is injustice whose feet are swift to shed blood. If these prosecutors had a righteous cause they would not be in such a hurry to bring it to its issue. If they were sure of the truth, they would not by a hop, skip and a jump avoid precedents and statutes and courts. They are striving their utmost to avoid the regular course of procedure and secure a speedy settlement by this General Assembly; because they see that the eyes of the Presbyterian Church are opening to the unwisdom of the

procedure into which it has been pushed by unwise and ambitious leaders. There are signs that the panic about the Bible and the Confession is passing away. They dread the retribution that is in store for them when the Presbyterian giant learns how greatly he has been deceived.

"Though the mills of God grind slowly,
Yet they grind exceeding small;
Though with patience He stands waiting,
With exactness grinds He all."

Mr. Moderator, Ministers and Elders of the Presbyterian Church in the United States of America:

The appellee has presented for your consideration invincible reasons why you cannot entertain this Appeal. He has shown you (1) that it is not so much an Appeal against a final judgment as against legislative decisions and executive opinions and advice of the Presbytery which are not appealable; (2) that there can be no appeal by a public prosecutor against a verdict of acquittal; (3) that these prosecutors are not accredited as an original party; and (4) that you cannot take jurisdiction of a final judgment when the Synod of New York has taken jurisdiction of interlocutory judgments in the case. These massive walls of law and equity frown upon this Appeal. Upon these battlements the appellee takes his stand. The constitution of our Church is his banner. Here he will remain standing whatever may betide. He can do no other. Here stands the Presbytery of New York, which has acquitted him. Here stands the Synod of New York, which has taken jurisdiction of his complaints. Here will rally, sooner or later, all who are loyal to Presbyterian law and disci-

LITERARY NOTE.

ANSON D. F. RANDOLPH & COMPANY (Incorporated) announce as their summer and autumn issues the following publications: WHERE WE WENT GYPSYING ACROSS THE SEA, 2 vols., by William Bement Lent. SHAKESPEARE'S FEMALE CHARACTERS, by Helen Faucit (Lady Martin). THE HIGHWAY OF LETTERS (FLEET STREET, LONDON), AND ITS ECHOES OF FAMOUS FOOTSTEPS, by Thomas Archer (ready). ACROSS FRANCE IN A CARAVAN, with 50 illustrations, by John Wallace. SCOTLAND'S FREE CHURCH, 1843–1893, with numerous illustrations, by John M. McCandlish, F.R.S.E. (ready). HOW TO BEGIN TO LIVE FOREVER, by J. M. Hodson (ready). PICTURED PALESTINE, by Rev. H. Neill. THE PULPIT COMMENTARY, 2 vols., on the Minor Prophets. WHAT IS INSPIRATION? by Rev. John De Witt, D.D. (ready). RELIGION IN HISTORY AND IN THE LIFE OF TO-DAY, by Principal Fairbairn (new edition). BRIGHTENING THE WORLD, by Rev. H. C. Haydn. THE NEAR AND HEAVENLY HORIZONS, by Mme. De Gasparin (a new edition). THE MYSTERY OF GRACE, and Other Sermons, by Hugh MacMillan, D.D., LL.D. COMPLETE IN CHRIST, by Charles Spurgeon. CHRIST MYSTICAL; or, THE BLESSED UNION OF CHRIST AND HIS MEMBERS, by Bishop Hall. MEMORANDA SACRA, by Prof. J. Randel Harris. POEMS by May Riley Smith, author of SOMETIME, 2 vols. UNDER THE NURSERY LAMP, Poems about Children, new illustrated edition. WOMEN'S THOUGHTS FROM FAMOUS WOMEN. MEN'S THOUGHTS FROM AMERICAN STATESMEN. CHRISTMAS-TIDE IN SONG AND STORY, 2 vols. (new edition). OUTWARD AND HOMEWARD BOUND, a Diary for Ocean Travellers (ready). UNDER KING CONSTANTINE, by Katrina Trask, second edition.

pline; all who have confidence in truth and scholarly investigation; all who would advance in the lines of the historic faith and order of our Church; all who seek the peace and prosperity of the kingdom of God.

Mr. Moderator, I have but a few words in conclusion. I beg leave to call the attention of the moderator and the commissioners of this Assembly to page 6 of the printed volume which has been circulated in this house.* Near the end of the page you will observe that there are three stars—not stars of glory, but stars, as I think, of shame, because they indicate an omission which ought not to have been made, because that which is omitted would have brought before your minds a very important item in the interest of the appellee. What right have these appellants to quote a portion of the action of a Presbytery and omit from that action, in an official document or semi-official document, such matters as they please? I therefore claim the right to supply that omission, and to read from the minutes of the Presbytery of New York the action which has been omitted, which is as follows:

"Whereas, the Presbytery of New York, at its meeting in May last, on account of utterances contained in the inaugural address delivered January 20, 1891, appointed a committee to formulate charges against the author of the address, the Rev. Charles A. Briggs, D.D., and whereas since that action was taken he has supplemented these utterances by answering to certain technical questions as follows:

"QUESTION 1. Do you consider the Bible, the Church, and the Reason as co-ordinate sources of authority? ANSWER. NO.

* See p. 4 of this book.

"Or, do you believe the Scriptures of the Old and New Testaments to be the only infallible rule of faith and practice? A. Yes.

"Q. 2. When you use the word 'reason,' do you include the conscience and the religious feeling? A. Yes.

"Q. 3. Would you accept the following as a satisfactory definition of Inspiration: 'Inspiration is such a divine direction as to secure an infallible record of God's revelation in respect to both fact and doctrine'? A. Yes.

"Q. 4. Do you believe the Bible to be inerrant in all matters concerning faith and practice, and in everything in which it is a revelation from God, or a vehicle of divine truth, and that there are no errors that disturb its infallibility in these matters, or in its records of the historic events and institutions with which they are inseparably connected? A. Yes.

"Q. 5. Do you believe that the miracles recorded in Scripture are due to an extraordinary exercise of divine energy? A. Yes.

"Q. 6. Do you hold what is commonly known as the doctrine of a future probation? Do you believe in purgatory? A. No.

"Q. 7. Do you believe that the issues of this life are final, and that a man who dies impenitent will have no further opportunity of salvation? A. Yes.

"Q. 8. Is your theory of progressive sanctification such that it will permit you to say that you believe that when a man dies in the faith, he enters the middle state regenerated, justified, and sinless? A. Yes.

"(Signed) C. A. BRIGGS.

"I hereby certify that the foregoing is a true copy from the Minutes of the Board of Directors of Union Theological Seminary of the City of New York.

"(Signed) E. M. KINGSLEY, Recorder."

Mr. Moderator and brethren, the appellant in the opening argument, as I have already intimated, entered into the merits of the appeal. I shall not attempt to go into that merit myself, except so far as to make an explicit denial of his statement, when he charges me with teaching doctrines which are fundamental errors. I deny that I have ever taught any doctrines that are fundamental errors, and my Presbytery has acquitted me, brethren, of teaching any fundamental errors.

I affirm before this body that I believe the Holy Scriptures to be the word of God, the only infallible rule of faith and practice, according to the vow that I assumed at my ordination, and which I have renewed every three years, according to the rule of the Union Theological Seminary. I affirm that I hold to the whole doctrine taught in the first chapter of the Westminster Confession relating to Holy Scripture, without any qualification or reservation whatever. I beg leave to affirm that I hold to the entire system of doctrine set forth in the Westminster Confession, and anything that I may have said that at all conflicts with this statement is due to the misinterpretations which have been put upon the language which I have uttered. I will not say that those misinterpretations are always intentional. I shall not exonerate myself from some possible blame in lack of clearness in the enunciation of them. But I beg leave to affirm the truth, that I have made no statement that at all conflicts with the affirmations that I have made before you.

And now, brethren, in all honesty between us as brethren, ought not this case to cease? Send it to the Synod of New York, and I call in all honesty and friendliness upon the appellants to unite with me in that procedure; and I promise them in your presence that if

they will go with me to the Synod of New York, where the whole case can be considered by that Synod, that in the most friendly and courteous manner I will aid in a full solution of all the matters in dispute. And if the case is brought before the next General Assembly and you make a final judgment in the case, then I will submit to your verdict. That is all I have to say. If I have said anything that at all injures the feelings of any member of this court, I very much regret it. If I have said anything in my Inaugural that has disturbed the peace of the Church, or caused any doubt or uncertainty or affliction to even the feeblest of God's children, I regret it more than any one else can do. I have been a teacher of the Bible in the Union Theological Seminary for twenty years. There are only four professors now teaching in your theological seminaries who have been in service longer than I have. There are only two of them who have taught more ministers now in the service than I have. I challenge the production of a single one of these ministers who have been under my instruction during the past twenty years, who can say that anything that I have taught him has undermined or diminished his faith in the divine authority of Holy Scripture, or his love for the Word of God.

III.

THE ENTERTAINMENT OF THE APPEAL.

DR. GEO. D. BAKER, chairman of the Judicial Committee, on May 23d presented the Majority Report of the Judicial Committee:

"In the case of the Presbyterian Church in the United States of America against the Rev. Charles A. Briggs, D.D., being an appeal to the General Assembly from the decision and final judgment of the Presbytery of New York rendered January 9, 1893, the Judicial Committee begs leave respectfully to report that they have examined the papers pertaining to this case, and find:

"1. That the appellant in the case is the Presbyterian Church in the United States of America represented by its prosecuting committee appointed by the Presbytery of New York, and as such appellant has the right of appeal to this Assembly as an original party; and said prosecuting committee is entitled to conduct the prosecution in all its stages in whatever judicatory until the final issue be reached.

"2. That due notice of appeal in this case has been given, and the appeal and specifications of error alleged and the record in the case have been filed in due time in accordance with the provisions of Book of Discipline, sections 96 and 97; and that said appeal is accordingly in order.

"3. We, therefore, respectfully recommend to the General Assembly that the appeal be entertained and the case be issued.

"Pending the adoption of this recommendation, your committee submit the following resolutions:

"(A) *Resolved*, That the General Assembly finds that due no-

tice of the appeal in this case has been given, and that the appeal and specifications of the errors alleged have been filed in due time and that the appeal is in order in accordance with the provisions of the Book of Discipline.

"(B) *Resolved*, That after the judgment, the notice of appeal, the appeal and the specifications of error alleged have been read and the parties have been heard, namely, the prosecuting committee and the appellee, as to whether said appeal shall be entertained, three hours being allowed for such hearing, namely, one and one-half hours to either party, and after hearing from the members of the Assembly, three hours being allowed for such hearing, the Assembly shall then vote upon the following resolution:

"*Resolved*, That the appeal from the decision and final judgment of the Presbytery of New York in the case of Prof. Charles A. Briggs, D.D., is hereby entertained, and it is ordered that the case proceed to trial in accordance with the provisions of the Book of Discipline.

"All of which is respectfully submitted.

"George D. Baker, John T. Duffield, John Hays, James T. Leftwich, James L. Maxwell, E. J. Sanders, John Peacock, J. B. Rendall, Edward F. Green, Thomas McDougall, Cyrus Pershing, William Fulton, George W. Cummings, H. M. Craydon, and James L. Orr."

Dr. Baker then said:

"I am requested also, to give to the Assembly a supplemental statement with reference to the principal reasons which have influenced the committee in reaching the decision which they have now declared:

"The Judicial Committee feels constrained to put on record and submit to the General Assembly, as supplemental to its report, the following principal reasons which have influenced and determined them in reaching the conclusions declared in said report:

"1. The Book of Discipline provides in express and unambiguous terms for an appeal directly from the Pres-

bytery to the General Assembly. Chapter 9, Sec. 4, paragraph 102, reads as follows:

"'Appeals are generally to be taken to the Judicatory immediately superior to that appealed from.'

"And Chapter 12, Sec. 4, reads as follows:

"'The General Assembly shall receive and issue all appeals concerning the doctrine or Constitution of the Church which may be regularly brought before them from the inferior Judicatories.'

"Such an appeal directly to the General Assembly is, therefore, plainly permissible when the gravity of the issue and the circumstances of the case render it advisable. Accordingly, the General Assembly of 1892, in strict compliance with the provisions of the Book of Discipline, not only decided the status of appellants as a committee to conduct the prosecution in all its stages, in whatever judicatory, until the final issue be reached, but they also decided that the gravity of this case and the circumstances connected with it were such as to justify an appeal from the Presbytery to the General Assembly.

"If this case, affecting vitally the essential doctrine of the Church, and having to do with its principles and its purity throughout its borders, be not a proper case to be appealed directly to the General Assembly, and if it is not in its character the very case for which the directory provides in the matter of direct appeal, it may be well asked, What case could possibly be such? It is evident to us that it was to provide for precisely such an emergency as is now upon the Church in this case that provision was made in the Book of Discipline when it granted the right of direct appeal to the General Assembly.

"2. In the final decision of the grave issues involved

in this case—and it is only the General Assembly which can give this final decision—it is eminently desirable that the Assembly making such decision should, as far as practicable, be representative of the entire Church.

"Should these views be decided by an Assembly on appeal from the Synod of New York, the Commissioners from that Synod representing more than one-fifth of the entire membership of the Church would be debarred by Sec. 98 of the Book of Discipline from sitting, deliberating, or voting in the case. Moreover, such a case of the exclusion of the Synod of New York might work to the disadvantage of the interests of the defendant himself. As far as the defendant himself in this case is concerned, it is manifestly more just that the Assembly which finally passes upon his case should be one not compelled to exclude his own synod, the Synod of New York.

"3. For more than two years the peace of the Church has been sadly disturbed by the issues pending in this case. It seems highly desirable, nay, it seems to us imperative, to settle these issues without unnecessary delay. To keep the Church in continued agitation, anxiety, and uncertainty for another year, when it is within our constitutional prerogative to determine the matter at the present time, is, in our judgment, to unjustifiably evade the solemn duty in the Providence of God devolved upon us, and would make us responsible for the prolongation of a condition of affairs in our beloved Church which imperils its purity and its peace, and hinders it in the fulfillment of its legitimate mission and the prosecution of its legitimate work.

"This report is signed by the same members of the Judicial Committee who signed the report already read.

The MODERATOR: Do I understand from the Chair-

man that there is a minority report authorized to be submitted?

Dr. BAKER: There is.

The MODERATOR: The Chairman of that minority will read his report.

The moderator then recognized Dr. Niccolls, of St. Louis.

Rev. Dr. NICCOLLS: Mr. Moderator, I well know that the fact that we present a minority report puts us already under the suspicion of the Assembly as standing in an attitude of opposition to the claims of the appellant in this case. We do not wish to be so considered. We are not here in the least degree to question the right of this appeal to come before the Assembly. We are not here to question in the least degree the orderliness of this report. But it is with reference to an opinion expressed in regard to the entertainment of this appeal, which I trust will be clearly presented in the minority report, that we present our views at this time. I will first read the exception we have taken, and then as briefly as possible state our reasons:

Minority Report of the Judicial Committee.

"The undersigned members of the Judicial Committee feel constrained to submit to the General Assembly the following minority report:

"We recommend that the majority report be amended by striking out all that follows, beginning with the recommendation that the appeal be entertained and issued, and substituting the following: 'We find the appeal in order, and recommend that the parties be heard in accordance with the provisions of the Book of Discipline, section 99.' We ask this for the following reasons:

"1. The majority report, by recommending that the appeal be entertained and issued, prejudges the case by advising the Assembly to do what the Book of Discipline says shall be determined only after the parties have been heard. The language of the

Book is as follows: 'The judicatory may then determine, after hearing the parties whether the appeal shall be entertained.' The impropriety of recommending that the appeal to entertain an issue in this case is the more apparent when it is remembered that one of the points involved in it is whether the appeal shall be entertained by the Assembly or referred to the Synod of New York.

"2. The majority report in form pledges the committee in advance to entertain the appeal, the parties not yet being heard; and yet this same committee is entitled 'to sit, judge, and vote in this case as the members of the judicatory.'

"3. The majority report is contrary both to the letter and spirit of the Book of Discipline, as stated in rule 99, Section IV, Chapter IX, which is as follows: 'Where due notice of an appeal is given and the appeal and the specifications of the errors alleged have been filed in due time, the appeal shall be considered in order. The judgment, the notice of appeal, the appeal, and the specifications of the errors alleged shall be read, and the judicatory may then determine after hearing the parties whether the appeal shall be entertained.'

"It will be seen that the functions of the Judicial Committee in this case are limited to finding the appeal in order and recommending the method of procedure, and that it is not its right to recommend to the Assembly that the appeal shall be entertained and issued.

"For these reasons we recommend that it shall be amended so as to conform with the law of the Church.

"This is signed by John Meigs, Charles T. Thompson, John Y. Foster, Henry H. Stebbins, and by the Chairman of the Minority.

"Now may I say a word, Mr. Moderator, with reference to the reasons that have influenced us?

The MODERATOR: Certainly, sir.

Dr. NICCOLLS: "You will observe that we are not differing in principle from the majority report. We are perfectly ready that this case shall be put on its passage before this Assembly. But I call your attention especially to the different meanings in which the word 'entertained' is used. Ordinarily by the word 'entertained'

we mean that the subject shall be taken up for its consideration. In that view of it at first the committee were unanimous. We were all agreed that this report should be brought before the Assembly and that the Assembly should pass upon it, and then, after hearing all the parties, decide what should be done. But when we were thus agreed it was stated and decided by the Chairman that this report meant that those who committed themselves to it had agreed to tell the Assembly that in their judgment a decision should be such as they have recommended. You will see that this was presented in the argument, and very ably presented in the argument, of the Chairman of the Committee, who has taken the arguments presented by the appellant in the report for the most part and incorporated them into the report of the majority; and in view of the arguments used by the appellants, which you have not yet heard, you would be directed to entertain this appeal and give the very verdict, by the form of the resolution, which you are to vote upon. This we claim is deciding for the Assembly beforehand. We wish this report to come before you in the simple form of law, unprejudiced by our decision in one way or another. We simply find the report in order, and tell you to look as the Book requires, into all the facts of the case. But the other report proposes that you shall say what should be done with the report. What we ask is simple fairness in the case.

"You will remember that certain overtures were referred from this Assembly to our committee; quite a large number of those overtures were referred, asking that a certain disposition be made of this appeal. Those overtures were not considered, and this resolution, recommended to you by the majority report, was made irrespective of those matters which you referred to us for

information ; and without regarding those facts the majority has told you to determine that this case should be entertained, and issued, and put on trial before you, before you have the facts in the case and before the Judicial Committee have heard the appellants in the case.

"You will also observe that the majority report is contradictory. Its first recommendation is this:

"'We recommend to the General Assembly that the appeal be entertained and the Assembly proceed to issue the case.'

"If you adopt that first recommendation, you have decided the whole case before you have it. Then here is another resolution interjected which seems to contradict that:

"'We recommend that the appeal shall be and hereby is entertained and the case proceed to trial pursuant to the provisions of the Book of Discipline.'

"If the first recommendation of the majority report were simply that the report was found in order, and that the Assembly proceed to hear all the parties, and if it were then stated that we recommend the adoption of the resolution to follow it after due notice, there would be no objection on the part of the minority. But by the terms of the resolution, it is desired to commit the committee to a decision in advance.

"I will say frankly that some few members of the committee desired to have a reference to this, but they did not deem it proper to prejudge the case by asking the Assembly to consider that matter, they did not presume to ask the whole committee to bring in such a recommendation. They wanted the case presented on its merits, as a matter of law, to the Assembly in order that there might be no complaint of unfairness.

"Here are the names of sixteen of the most honor-

able gentlemen in the Assembly written to their decision beforehand, to the effect that they believe that this appeal should be entertained and issued in this General Assembly. What would you think of a judge who should give a written opinion to a party on appeal that his appeal should be sustained? What would you think if that judge should say: 'I give you a written opinion that your appeal shall be sustained; I will now proceed to take my place on the bench and listen to the parties, and give my decision subsequently'?

"Here are the judges who are to sit in this, the highest court of the Church, who are entitled to sit and vote in this Church on this very question, Shall the appeal be entertained? It is found valid as to law and order; they have decided beforehand that it shall be; they have put their names to it to say that it shall be; and then follow the recommendation to sit as judges in the very court that is to listen to the appellant and to decide the very facts in the case.

"It is for these reasons that the minority respectfully ask that the majority report be amended to conform to what is evidently the teaching of the law in this case; that the case be heard simply on its merits, without being hampered by a previous judgment on the part of the Judicial Committee."

It is evident that the majority of the Judicial Committee recommended the entertainment of the Appeal before the appellee was heard, and that they also proposed to so limit him as to time, as to prevent an adequate presentation of his case. After private remonstrance with them and discussion, the Judicial Committee on May 24th unanimously recommended to amend their report as follows:

"The Judicial Committee unanimously recommend:

"1. That the appellants be allowed, if they so desire, one hour in which to present their case at the beginning.

"2. The appellee having informed the Chairman of the Judicial Committee that he would probably need five hours to present his defense of the action of the Presbytery and his reply to the appellants, that five hours shall be allowed him, should he wish to occupy so much time.

"3. That the appellants be allowed two hours to reply to the appellee, the time to be extended, should they request it, not to exceed, however, the limit of time allowed to the appellee."

On motion the Judicial Committee was allowed to amend its report as indicated.

May 26th.

After the debate a resolution was offered in accordance with the majority report:

"*Resolved*, That the appeal from the decision and final judgment of the Presbytery of New York in the case of Rev. Charles A. Briggs, D.D., is hereby entertained; and it is ordered that the case proceed to trial in accordance with the provisions of the Book of Discipline."

An amendment was offered:

"*Resolved*, That the four hours assigned for discussion by the Assembly having terminated, it is the judgment of this Assembly on the question of the entertainment of the Appeal, in the case of Dr. Briggs, that the whole case be and is hereby referred to the Synod of New York for its adjudication at its next regular meeting."

A motion was immediately made to lay the amendment on the table. This was carried by a *viva voce* vote. A division was called for and the moderator declared that the majority was in favor of laying it on the table, but refused to count the votes. The ayes and noes were

called for on the original motion. It was carried by a vote of 405 to 145.

Synod.	*Yea.*	*Nay.*	*Synod.*	*Yea.*	*Nay.*
Atlantic	12	—	Nebraska	9	2
Baltimore	10	—	New Jersey	20	14
California	13	3	New Mexico	4	2
Catawba	8	—	*New York	31	51
China	2	2	North Dakota	5	1
Colorado	7	1	Ohio	36	10
Illinois	19	15	Oregon	6	2
India	2	1	Pennsylvania	77	5
Indiana	11	6	South Dakota	10	—
Indian Territory	8	—	Tennessee	5	—
Iowa	23	1	Texas	5	1
Kansas	14	4	Utah	7	—
Kentucky	6	—	Washington	7	2
Michigan	11	9	Wisconsin	9	3
Minnesota	10	10		—	—
Missouri	18	—	Totals	405	145

The report of the majority of the committee was then adopted as a whole.

* Presbytery of New York not voting.

IV.

ARGUMENT OF PROF. BRIGGS AGAINST SUSTAINING THE APPEAL.

Mr. Moderator, Ministers and Elders of the Presbyterian Church in the United States of America:

I wish to make a few preliminary statements for the information of the house, and the gentlemen of the press, and the stenographer.

First, I waive the reading of the records, although I feel very deeply that the records contain my defence in its fullness, including the printed document called *The Defence*, also the volume entitled *The Higher Criticism of the Hexateuch*, which is a part of the defence, and the volume on *The Bible, the Church, and the Reason*, which was submitted to the Presbytery of New York as a part of the evidence, and also all of the evidence which I submitted to the Presbytery of New York in the trial. But the reading of all that defence and all that evidence would consume a great many hours, and I have taken it for granted that this defence and the evidence, having been sent by mail to every commissioner of this Assembly, as honorable men they have read it, and it would only be necessary for me in argument to call attention to what I regarded as the essential parts thereof.

Second, I have endeavored to save the time of the

house as far as possible in my argument. Therefore I have gone over it and I have cut it up and readjusted so many parts of it that I can answer the question of the stated clerk that not even the copy which is in my hands can altogether be relied upon as giving to the stenographer the argument which I am now to make, because it is necessary, under the peculiar circumstances in which I am now placed, to make some portions of my argument purely extempore.

Let me say, in the third place, that there are so many of these specifications of error which concern especially the presbytery of New York, that I feel it is a serious burden that it should be laid upon me to defend the presbytery. I wish that the commissioners of the presbytery had more time to defend the presbytery with reference to these matters. But I feel that whatever opinion you may have as to the larger portion of the specifications, under the grounds of appeal, that if you sustain nearly all of them, you still would have no reason whatever to make any change in the verdict, and that alone is what the appellee has to do with. At the same time let me say one word to this body as a precaution. In view of my experience in the last General Assembly, I will state very frankly to you what my fear is. If I could have three or four of the elders and lawyers who thus far have voted against me in this body rise up in the debate and inform you what portions of these specifications were illegal, I think I could be content to leave the most of them for the judgment of the house. I do not see how I can spend the time to go into all of them in a sufficient manner. The peril of the situation is this, brethren. I ask you to guard yourselves against it, as judges of this court, that, when it comes to a vote and you are weary with the long discussion of the parties

and the debate, you shall not rush on without thought and sustain one specification after another without giving it the due consideration that it requires, lest you may make the mistake of establishing a very unfortunate precedent, which may not hurt the defendant, whose sole interest is in the merits of the case, but which may do grave injustice to appellees who may have the misfortune at some subsequent time to argue their cases before future General Assemblies. With these preliminary statements I shall enter upon my argument.

Mr. Moderator, Ministers and Elders of the Presbyterian Church in the United States of America:

You have overcome the objections to the entertainment of the appeal presented to you by the appellee; you have summoned him to resist the sustaining of the appeal. He cannot enter upon this task without a distinct reservation of rights. He does not consent to your entertainment of the appeal. He still claims, notwithstanding your action, that the appeal is not so much against the final judgment as against action supplementary thereto; that no appeal is lawful by a public prosecutor against a verdict of acquittal; that the appellants are not an original party; and that the synod of New York has the rightful jurisdiction of this case.

The appeal is urged on the basis of thirty-four specifications grouped under five grounds. These grounds charge the Presbytery of New York with doing every wrong that could be done according to the Book of Discipline,—"irregularity in the proceedings," "receiving improper testimony," "manifestation of prejudice in the conduct of the case," "mistake or injustice in the decision." The presbytery of New York must be a very inconsiderate and wicked body if it could make so many

blunders and do such grave injustice to these five innocent presbyters whom it appointed to "arrange and prepare the necessary proceedings appropriate in the case of Dr. Briggs."

It would weary you to go over these thirty-four specifications in the order in which the appellants present them. It would be profitless to test the same objections three, four, and five times under the different heads. We shall consider each objection once only in its appropriate place and inquire whether it gives any of the alleged grounds for sustaining the appeal.

The specifications have been examined in order to determine whether there was any principle of arrangement, chronological, logical, rhetorical, or sensational, but, so far as can be seen, their only arrangement is a promiscuous one. To follow it would be to get us into the same intricacy and confusion of mind in which the appellants themselves seem to be involved.

The appellee therefore proposes to arrange all their specifications of objection in chronological order in accordance with the several stages of procedure in the court of the presbytery. This will enable us to test every matter complained of in the midst of the circumstances which gave it birth.

1.—THE ACTION OF THE PRESBYTERY UPON THE PRELIMINARY OBJECTIONS OF THE DEFENDANT.

The appellants present seven specifications of objection under three grounds against four different actions of the presbytery upon the preliminary objections of the defendant. The appellee, when we were considering the Entertainment of the Appeal, called your attention to the fact that the presbytery had overcome five of his preliminary objections, and that he and others, his co-com-

plainants, made five complaints to the synod of New York against these actions of presbytery. You have decided to do the great injustice of entertaining the objections of the appellants to four actions of the presbytery without entertaining the objections of the appellee to five actions of the presbytery.

The actions of the presbytery which are presented by the appellants as grounds of appeal are, (1) striking out Charge IV. from the Charges prepared by the committee; (2) striking out Charge VII.; (3) transferring the proofs from Scripture and Confession from the specifications to the Charges; and (4) requiring a vote on each item of the Charges.

1. *Striking out Charges IV. and VII.*

It will save time to discuss the two rejected Charges together.

The General Assembly should now carefully consider the preliminary objections to the Amended Charges made by the defendant. Among other things he said: [See *The Case against Prof. Briggs*, Part II., pp. 57, 58, from which the citation was made of all matter within the sentences given below:

"I object to the amended charges that they do not comply with the law respecting amendment, and that they violate the express directions of the last General Assembly. . . . . But, so far as I am concerned, I shall waive this objection as regards six of these new charges, and make my stand against two of them."]

The defendant would have resisted all of the Charges as insufficient in form and legal effect on this ground, that their general nature had been changed, if it had not been for the evident desire on the part of the last General Assembly and also of the Presbytery of New York that the merits of the case should be reached as soon as

possible. Therefore the defendant waived everything he could rightfully waive. He took his stand on the illegality of two of the Charges, not merely because the general nature of them had been changed, but because they were really new Charges, and Charges which impeached his veracity.

I shall simply repeat to the General Assembly what has been said to the Presbytery:

[See *The Case against Prof. Briggs*, Part II., pp. 61–65, , from which citation was made of all the matter within the following sentences:

"Two charges remain to be considered, namely, 4 and 7. I object to them on two grounds. (1) These are new charges, which so change the general nature of the original charges that they cannot legally be allowed; and (2) that it is not in the interests of justice that such charges as these should be approved by the Presbytery of New York. . . . . I ask the Presbytery, in view of these disclaimers, if it is just, if it is honorable, if it is in accordance with Christian courtesy and gentlemanly propriety, for the prosecution to make such charges against me?"]

Judge, ye ministers and elders of this supreme court of the Presbyterian Church, whether the Presbytery did right or not in refusing to try these Charges.

Dr. Alexander offered the following resolution:

"*Resolved*, That the Presbytery, in consideration of objections offered by the accused, require the committee to amend the charges and specifications by striking out charges 4 and 7."

Mr. McCook of the prosecuting committee then said:

"I therefore suggest, as the time for adjournment has arrived, that the Committee be given to-night to examine and read what Dr. Briggs has said with reference to charges 4 and 7, and, if we can, in a most careful and conscientious desire to save the time of this body and to conserve the truth, remove those charges, why, we will be very glad to do so." (Stenographical Report, p. 154.)

Dr. Alexander said at the beginning of the next session:

"It will be remembered that last evening the counsel of the committee asked for delay, in the hope that upon a review of their charges they might find that they could consistently drop the two referred to in my resolution. I am prepared to give way to the committee in order to hear whether they have concluded to do that, or not, and for that purpose only." (Stenographical Report, p. 167.)

Mr. McCook, instead of giving the decision of the committee on the matter referred to them, went into an elaborate argument against removing Charges IV. and VII.

During the remarks of Mr. McCook, Dr. Alexander interposed:

"I do not like to interrupt Col. McCook, but it seems to me that he is doing something very much more than that for which I yielded the floor to him. What I yielded to him for was to ascertain what the conclusion of the committee had been in this case; and now he seems to be making an elaborate argument against the objection offered by Dr. Briggs." (p. 176.)

Dr. Briggs also interposed with an objection:

"Mr. Moderator, I wish to record an objection now in order that I may put it in my appeal. I wish to record my objection now that the Prosecuting Committee yesterday were heard in response to my preliminary objection, and you are now giving them a second opportunity to respond without my consent." (p. 182.)

At last Dr. Alexander interposed again and insisted:

"I insist, Mr. Moderator, that this is trespassing entirely beyond what courtesy would require me to do in yielding the floor to Col. McCook. He has not only answered the question, which I yielded the floor to him to allow him to answer, but he has made an elaborate defence against the objections made, and now he is proceeding apparently to discuss the question as to

the orderliness of our proceeding. I cannot yield the floor further."

"Mr. McCook: I simply wished, in conclusion, to make a suggestion in the way of orderly procedure which might save time.

"Dr. Alexander: You see, Mr. Moderator, that the purpose of this is not, as we had supposed, to give opportunity for the withdrawal of forces at certain points, but to strengthen those forces and to forge new weapons. I yielded the floor in the hope that the Committee might see their way clear to what seems to me a just thing, and what certainly would be a graceful thing. They have not seen fit to do so. I cannot but feel that the Committee have had full consideration given them. They have brought before us what is substantially a new case. It is manifestly a much stronger case than the one which they presented originally. They now have six broad accusations, upon which the accused consents to go to trial. They have had the opportunity of presenting two arguments in answer to the objections which have been made, and it seems to me that nothing more can be asked on their side. On the other hand, what is the position of the accused? He has been put a second time in jeopardy. Some of us, in our desire to reach the merits of this case and obey the mandate of the higher court, have stifled our convictions with reference to the constitutional order of procedure, and now the Committee insists upon pressing these charges, apparently with the desire to stop every possible avenue of escape. And why do they refuse to drop these charges? In order that they may require the accused to plead to charges which he has distinctly and solemnly and repeatedly repudiated. It seems to me that the object of the Committee, like the object of this body, should be not to convict the accused if it is possible to convict him, but to clear him if it is possible to clear him consistently with truth and law and righteousness.

"I wish simply to add, Mr. Moderator, that it seems to me that it should be the desire of the Committee and the desire of this house to drop such charges as these when the brother accused comes forward and says, as he has said to us: 'Brethren, you have misconceived me; I do not hold these views, and I never did hold these views.' Now, if there is any apparent inconsistency betwen phrases in the Inaugural Address and that

statement of his, why, let him give his explanation as a peer among his peers, and do not frame them into an indictment against him to which he is called upon to plead before this tribunal where he is on trial for his ecclesiastical life." (Stenographical Report, pp. 186-188.)

The motion of Dr. Alexander was divided, and on separate votes Charges IV. and VII. were thrown out. This decision of the Presbytery ought to have settled the matter in the court of the Presbytery. But in fact, Mr. McCook in his argument in behalf of the Prosecution argued in behalf of the Charges which were thrown out, as the defendant showed in his Defence: [pp. xii–xvi.] So also Dr. Lampe argued on these same Charges under the guise of a rebuttal. The defendant took exception to this argument as follows:

"(4). Finally, let me call your attention to the fact that this afternoon Dr. Lampe has reiterated the argument on the seventh Charge that you threw out, and has reiterated it in a most offensive form. Do you allow a committee claiming to be appointed by this Presbytery, and to represent you, to override a ruling which you have distinctly made? I call for the justice of the court. I appeal to the sense of honor of the judges. In this argument on the seventh Charge (which was ruled out) he attributes to me the words of my beloved teacher, Dr. Dorner, when I have expressly disclaimed in my argument, as you will remember, holding that particular phase of his doctrine. It is true that in my book entitled 'Whither,' on pages 260 and 261, I quoted an extract from Dr. Dorner with reference to those who had passed into the middle state, in which he said a few words about the condition of the impenitent there, and expresses the hope that some of them may be saved; but as the greater part of the extract (and that is the reason why I cited it) refers to the progressive sanctification of believers who have gone into the middle state, I did not indorse every word that Dr. Dorner said, in 'Whither'; nor did I think it necessary for me to disclaim that portion of his doctrine when I said, 'Lest any one should stumble at these excellent thoughts, owing to the name of Dorner, I

shall conclude with the wise words of John Wesley.' The previous context in which this passage was contained shows sufficiently well that I had been teaching the doctrine of progressive sanctification after death of believers, and had not thought of any change for unbelievers so far as their redemption is concerned. And in the argument which I made before you I took the precaution, lest any one should misunderstand me, when I quoted this extract from Dorner again, to disclaim that specific teaching of Dorner which Dr. Lampe has again, and in spite of my disclaimer, attributed to me this afternoon." (*The Defence*, pp. 192–193.)

In order to overcome the force of these unlawful arguments and any possible injury he might suffer from them in the minds of the court, the defendant in the course of his argument briefly said:

"When I indorse the doctrine of Dorner as regards the progressive sanctification of believers after death, that does not imply that I hold with him that those who die impenitent here and go to the world of the lost may yet be redeemed from their lost condition in the Middle State. Many holy and wise men hold that doctrine, and God forbid that I or any other should challenge their right to their opinion. O that I could agree with them! I would gladly make many sacrifices if I could honestly indulge in such a comfortable hope. But I do not, I cannot. I exercise my right in disclaiming this opinion, and I also exercise my right of Christian charity in refusing to condemn them as enemies of Christ on account of it." (*The Defence*, pp. 176–177.)

Dr. Lampe has argued this afternoon that I teach that those who enter the future life impenitent will have an opportunity of beginning a Christian life there. I have never taught any such thing. I have distinctly repudiated the Roman Catholic doctrine of purgatory. I have distinctly and over and over again repudiated the doctrine of second probation.

I have repudiated the doctrine that there is any regeneration after death for those who die impenitent. I have

distinctly disclaimed that there is any regeneration after death for those who die unregenerate, or that there is any beginning of their Christian life after death. My doctrine of redemption after death concerns alone, in all the statements that I have made respecting it, those who die as believers, those who enter the future life as born again under the influence of the Holy Spirit in this world.

It is claimed by the appellants that because they in their original charges used the words "state and character of believers after death," they had a right in their new charge to refer to the change of character of unbelievers after death. I cannot see any propriety in that. They made no statement in their original Charge upon my views as to eschatology, that I taught that unbelievers changed their condition after death. My complaint is that they have introduced that new Charge into the seventh of these Amended Charges.

You have heard that I proclaim the dreadful heresy of race redemption; whereas, if you will look in my Inaugural Address you will see that my reference to race redemption is connected with the doctrine of the incarnation of our Lord. The question is, what is race redemption? My brethren take too narrow a view of redemption. They are thinking of redemption as nothing more than deliverance from hell fire or as the beginning of a Christian life, whereas I have been using "redemption" in my Inaugural and in my writings in its more extended sense, as embracing, according to the doctrine of our Confession of Faith, the entire process, from the beginning in regeneration until the last stage, when the glorified church rejoices in the presence of the bridegroom. If you take into consideration the meaning which I attach to redemption—and I beg leave to affirm

that that is the Scriptural use of the term—you will see that my views on this subject have been consistent and that I have never taught what they charge me with teaching under this seventh Charge. Would that I could teach such a comfortable doctrine; and if the time ever comes that I can, I will gladly lay down my ministry in the Presbyterian Church and go forth to teach the hope of salvation of some of those who apparently have died without regeneration in this world. But I do not hold that belief now: I cannot.

With reference to the fourth charge, predictive prophecy, let me say that I have been teaching Messianic prophecy for twenty years to a thousand Christian ministers who are now at work in all parts of the world. I published a work on "Messianic Prophecy" after many years of teaching and careful revision of my lectures. This book has been translated into the Japanese language and is now in use in several theological colleges in Japan. They see no error in it, and it has received the commendation of no less a man than William E. Gladstone, and the hearty approval of no less evangelical a man than the late Dr. Franz Delitzsch, of Leipsic. I shall read from the context.

A MEMBER: When was that book written?

Dr. BRIGGS: Several years ago. I forget the date now.

Dr. BROWN: In 1886, was it not?

Dr. BRIGGS: Yes, 1886, I think. Now I read from the context:

"We are met on the threshold of Hebrew prediction with the bold statements of Kuenen, that Hebrew prediction has been proved false by history in so many particulars that the system cannot be regarded as true and divine. Its predictions have not been fulfilled in the time allotted them, and the fulfilment is no

longer possible. The reverse of the predicted has often happened.

"Hebrew prediction has been disproved by events, and it must take its place with all other prophecy as a compound of truth and error, of blasted hopes and disappointed expectations. These charges will not bear serious examination. They really concern only the scholastic theory of prophecy and misinterpretations of predictions.

"The scholastic theory of prophecy, which was essentially Montanistic, failed to distinguish between the form and the substance of prophecy. It sought above all verbal accuracy and circumstantial and detailed fulfilment. It sought by strained interpretations to identify prophecy and history.

"The efforts to show the literal fulfilment of the predictions of Daniel in the history of Israel from the exile to the advent, in its dreadful inconsistencies of interpretation, have so disgraced the science of Biblical Interpretation that it is a marvel that the book has survived such cruel manipulation. The vain efforts to find Christian history depicted in the Apocalypse of John has so damaged the book that we are not surprised that even Christian scholars should have abstained from its study as unprofitable.

"Predictive prophecy has been made a burden to apologetics by the abuse that has been made of it by self-constituted defenders of the faith and presumptuous champions of orthodoxy. It is necessary that evangelical critics should rescue predictive prophecy from the hands of those who have made such sad mistakes.

"Kuenen has taken advantage of the errors of the scholastic theory and interpretation of predictive prophecy, and has dealt Hebrew prediction the severest blows it has ever received. We shall parry these blows of Kuenen by showing that they have destroyed the scholastic theory, but they have not in the slightest degree injured Hebrew prediction as such.

"Predictive prophecy has its necessary forms and limitations, which we should carefully study in order to understand it. We shall first distinguish the form from the substance of the prediction, and then present the necessary limits of Hebrew prediction; for we would unfold the truth which Tholuck has so well expressed when he says: 'It is not prediction of the accidental,

but of that which is of religious necessity, which is the essential thing in Hebrew prophecy.'

"Kuenen has the right of it over against the scholastic apologists when he says: When they assert that the prophecies have been fulfilled exactly and literally, and thence deduce far-reaching consequences, we cannot rest satisfied with the general agreement between the prediction and the historical fact, but must note also along with that the deviation in details as often as such a deviation is actually apparent.'

"But Kuenen and the Scholastics are here alike in error, for the prophecies are predictive only as to the essential and the ideal elements. The purely formal elements belong to the point of view and coloring of the individual prophets. We are not to find exact and literal fulfilments in detail or in general, but the fulfilment is limited, as the prediction is limited, to the essential ideal contents of the prophecy. We start therefore from the point of view of the prediction, and thence rise through several forms of prediction.

"The future judgment and redemption, the two poles of predictive policy, are necessarily based on present experience of discipline and upon the history of redemption and judicial acts of Jahveh in the past. Looking forth into the future, prophetic prediction clothes and represents that which is to come in the scenery and language familiar to it in the present and in the past. The most suitable events, persons, and things of the past and the present are employed. Hence the type or the symbol lies at the basis of all genuine prediction." (pp. 43-45.)

This is the passage from Kuenen in its connections and I think the house will see that I am opposing Kuenen and endeavoring to state the evangelical position on which the whole system of the Messianic prophecy of the Old Testament can be defended, and then I go to the Old Testament predictions and point them forward to fulfilment by Jesus Christ in history.

Now let me read you my summing up of Messianic prophecy:

"We have in the Messianic prophecy of the Old Testament an organic system constantly advancing on the original lines.

and expanding into new and more comprehensive phases with the progress of the centuries. Vast and complex that organism is,—so complex that the wisest sages of Israel could not comprehend it,—as vast as the difference between a divine advent and a human advent, as contrasted as a suffering and reigning Messiah, as an advent of grace and revival, and as an advent of judgment and perdition; and yet there is a unity in all this variety and complexity that no one could discern until Jesus Christ was born, God manifest in the flesh; until He passed through the experience of a suffering Messiah, and advanced to His throne as the reigning Messiah; until the advent of the Holy Spirit at Pentecost warned of the advent of the great and terrible judgment.

"In Jesus of Nazareth the key of the Messianic prophecy of the Old Testament has been found. All its phases find their realization in His unique personality, in His unique work, and in His unique kingdom. The Messiah of prophecy appears in the Messiah of history. The redemption predicted as the completion of the redemption experienced in greater and richer fulness in the successive stages of the old covenant is at last completed in the Messiah of the cross and of the throne; in the Lamb that was slain for the redemption of men, but who liveth as the fountain of life, and the owner of the keys of Hades.

"Hebrew prophecy vindicates its reality, its accuracy, its comprehensive ideality as a conception of the divine mind, as a deliverance of the divine energy, as a system constructed by holy men who spoke as they were moved by the Holy Spirit.

"The Messiah of prophecy and the Messiah of history, the redemption of Hebrew prediction and the redemption of Christian possession, are not diverse, but entirely harmonious in the Lamb, who was foreordained before the foundation of the world, but was manifest in these last times of its history.

"For it was the same divine Being who devised the redemption of the world, who revealed it in prophetic prediction, who prepared for it in the development of history, who accomplished it in time and eternity. Hebrew prophecy springs from divinity as its source and ever-flowing inspiration, and it points to divinity as its fruition and complete realization.

"None but God could give such prophecy; none but God can

fulfil such prophecy. The ideal of prophecy and the real of history correspond in Him, who is above the limits of time and space and circumstance, who is the creator, ruler, and saviour of the world, and who alone has the wisdom, the grace, and the power to conceive the idea of redemption, and then accomplish it in reality through the incarnation, crucifixion, resurrection, ascension, and second advent of His only begotten and well-beloved Son, very God of very God, the Light and Life and Saviour of the world." (*Messianic Prophecy*, pp. 497–499.)

That is the conclusion of my whole argument on the Messianic predictions. Need I argue whether I hold the views imputed to me or not?

We have gone over the procedure of the Presbytery of New York in their dealings with two Charges, which the prosecution strove so long and with such persistence to have accepted by the presbytery and served upon the accused, and which they insisted upon arguing in spite of the presbytery. Who has the right to determine whether charges are sufficient? The presbytery, or a committee of the presbytery?

A MEMBER: We have listened to what Dr. Briggs has said on that subject, and I should like to ask him a question. That book was written in 1886, and I should like to ask if that is the opinion of Dr. Briggs at this time? Does he subscribe to the same opinions now?

Dr. BRIGGS: Certainly I do. That book I use as a text-book in the Union Theological Seminary, where it has been used continuously since it was written. Every senior class goes over it. I hold the same views precisely. I have not changed a particle.

Dr. BRIGGS, resuming: And if a Presbytery decide to serve six charges and not to serve two charges is it not within their proper functions so to decide? There is no right of appeal against it, for it is not a final judgment. There is no right of complaint, because the supreme court has decided that a complaint cannot be taken

against a court for exercising its discretion. (Digest, p. 677.) Therefore the action of the Presbytery in refusing to accept these Charges and serve them was final. But suppose that the Presbytery made a mistake in not serving these Charges, what action can the Assembly lawfully take in the case? These Charges have not been served, they have not been tried, they form no part of the final judgment. How can this matter be appealed? It cannot be shown that the striking out of these Charges influenced the final judgment on the other Charges submitted for probation. Would you send them to the Presbytery of New York for trial? This is the most you could do. You cannot try these two Charges which have not been tried in the court of the Presbytery, any more than you could try any other charges. These Charges are not under your jurisdiction. There is no way in which they can reach your jurisdiction without a trial of them in the court of the Presbytery.

It is difficult to see what purpose the appellants have in mind in insisting upon these Charges after the Presbytery refused to entertain them. They bring these objections under five Specifications and three Grounds. It is claimed by the appellants that the striking out of these charges was irregular because they were in substance an essential part of the original Charges and Specifications. This we have shown not to be the case. They were entirely new charges and in no sense amendments of the original Charges and Specifications. It was not irregular for the Presbytery to exercise the discretion, which the General Assembly had directed them to use, when they instructed the Presbytery "to permit the committee to amend the Charges and Specifications, not changing the general nature of the same." The General Assembly did not direct the Presbytery to declare any charges sufficient which this committee might submit; but to pass

upon such charges and determine their sufficiency, determine those which were sufficient and those which were not sufficient. The Presbytery did exactly what the General Assembly directed it to do. It determined the sufficiency of six of the Charges and the insufficiency of two of them. Therefore its action cannot be regarded as irregular.

It is claimed by the prosecution that the Presbytery declined to receive important testimony when they refused to permit the committee to prove these two rejected Charges by competent evidence. But how could the Presbytery permit the committee to present evidence for Charges which were stricken out as new Charges and as insufficient? The Presbytery could not do so without the violation of law. The committee did not ask permission to present evidence for these insufficient charges, but they did it without permission and in a manner injurious to the accused, and to which the accused objected and took exceptions.

But what has this presentation of evidence in behalf of Charges which were thrown out, to do with the final judgment of the Presbytery on Charges which were tried? The Appeal is against a final judgment of the Presbytery of New York acquitting Dr. Briggs of six Charges which were tried. The final judgment has nothing to do with the Charges which were thrown out and not tried. Therefore even if the Presbytery did wrong in throwing out these Charges and the evidence proffered therefor, it is not claimed that the Presbytery declined to hear competent evidence in proof of the Charges submitted for probation, and upon which the final judgment was pronounced, and therefore the whole of the third Ground of appeal must be stricken out as altogether irrelevant to the final judgment upon the six Charges from which the appeal was taken.

It is also claimed by the appellants that the Presbytery manifested prejudice in the conduct of the case (IV. 2) when it gave its opinion that the two Charges were new Charges and should be thrown out. This is the assertion of the committee. But it is without proof. Which was the more likely to be prejudiced, the committee in behalf of the Charges which it had prepared; or the Presbytery sitting as a court of Jesus Christ and in conscience bound to determine whether the Charges were new Charges or not? The General Assembly should not discredit the Presbytery of New York by imputing prejudice to the Presbytery unless the General Assembly is convinced of such prejudice by insuperable arguments. None such have been presented. It is the presumption that the court was without prejudice.

2. *Transfer of Proofs.*

The appellants object to irregularity in the proceedings of the Presbytery of New York in "the *transference of the proofs* cited by the Prosecuting Committee from the Scriptures, the Confession of Faith and the Catechisms, from the Specifications to the Charges." (I. 3.)

Listen to the Preliminary Objection of the accused:

"I object to the relevancy of all the proofs from Scripture, Confession, and Catechisms. Let me clearly set before you what kind of proof is necessary in order to convict me of heresy under Presbyterian law. It is necessary for this court, if you would make a just verdict in the fear of God, to put the charges and specifications in definite forms of major and minor premises. The major premise or charge must represent that certain teachings are irreconcilably opposed to some essential doctrine of the Westminster Standards and Holy Scripture. The minor premise or specification must set forth some statement in my Inaugural Address, interpreted in a sense to which I consent, which is in conflict with said doctrine.

"Proof from Holy Scripture and the Westminster Confession must be presented under the charges in order to prove that the doctrines asserted in the charges as essential doctrines are really essential doctrines. Under the specifications the prosecution are shut up to proof from my Inaugural that I teach therein the erroneous doctrines specified. An examination of the charges and specifications shows that they do no such thing. The proofs from Scripture and from Confession are all under the specifications when they should be under the charges. I therefore challenge the relevancy of all the proofs offered by the prosecution from the Confession and from Holy Scripture. The attention of the Presbytery is called to this fault. It may be corrected by a simple transfer of these proofs from the specifications to the charges if the Presbytery so desire." (The Case, Part II., p. 54.)

The Presbytery had no alternative than to take the action which they took. But the prosecution paid less attention to this action of the Presbytery than they did to the action of the Presbytery in striking out two of the Charges. As the defendant showed in his defence, the prosecution pursued their own way and the Presbytery did not interfere with them. And now after they have exercised themselves in this license and rebellion, they make the action of the Presbytery a ground of appeal. If it was a lawful ground of appeal—it did them no harm, they have no grievance. They had their own way. The only grievance in the matter was suffered by the defendant, who, after the Presbytery had sustained his objection, saw the Presbytery neglect to enforce its decision against the prosecution. This conduct of the prosecution reminds us of that greedy boy, who after his father had told him not to eat his cake, thought he might eat it and have it too.

3. *Itemizing the Charges.*

The prosecution represent that there was "irregularity in the proceedings of the Presbytery," in that the

Presbytery required that each item in Charges I., II., III., V. and VI. should be voted upon separately. (I. 12.)

This was the preliminary objection of the defendant:

[See *The Case against Prof. Briggs*, Part II., pp. 59–61, from which citation was made of all matter between the sentences given below:

"Charges I. and II. agree in alleging conflict with the essential doctrine of the Holy Scripture and of the Standards that Holy Scripture is most necessary and the rule of faith and practice." . . . . "The only thing that I insist upon, in the interest of justice, is, that every offence alleged against me shall be acted upon by a separate vote. Only in this way can you comply with the law, that a vote on each charge shall be separately taken. Only by this procedure can you reach a just verdict."]

If the Presbytery had not removed this preliminary objection, it would have acted unfairly toward the accused. It is evident that the Charges were made to convict the accused if it were at all possible to convict. The only hope the prosecution had in the court of the Presbytery—the only hope they can entertain before fair-minded judges, is to gain conviction by a cumulative vote. They are now trying to secure from you an endorsement of their iniquity.

But consider for a moment what would be involved in sustaining this specification of objection to the action of the Presbytery of New York. The defendant waived his objection to six of the Charges on the express condition that the Presbytery would take the action it did take. This was distinctly understood by the Presbytery. Mr. McCook represented in his rejoinder that the defendant had waived his objection to all the charges but two and had expressed his willingness to go to trial upon them. (p. 173.) But the defendant corrected this statement as follows:

"It is not true altogether that I have waived objection to every charge but two. I have waived it under certain conditions. If the Presbytery fulfil these conditions I waive; if they do not, I do not waive." (p. 191.)

Further on in the debate Dr. Briggs said:

"In the preparation of my demurrer I considered carefully the Charges as a pure matter of ecclesiastical law, and I made up my mind that I would waive every point I could in order to save the time of the house and get to the merits of the case. You see that I waive what I regard as substantial objections to five of the charges. The objections that I make to these charges are: That they violate the action of the General Assembly in their reversal of your dismissal, and also the provision of the Book of Discipline which requires that when amendments are made in charges the general nature thereof shall not be changed. Now, I take exceptions—I have filed preliminary objections to all of these five charges, as transcending the general nature thereof. I am willing to waive that objection provided you recognize my other objection, and, in either of the ways that have been indicated, avoid it. My other objection is, that the charges are insufficient in form and legal effect. They are insufficient in form and legal effect because they state more than one offense in the charge. Section 16 of the Book says: 'A charge shall not allege more than one offense.' I claim that these charges, each and all of the five, allege more than one offense. I have argued it in my demurrer which is in your possession. Now, it has been argued by the prosecution that it does not make two charges to say that an offense is contrary to the Book of Discipline—that an offense is contrary to the Standards of the Church, and also of the Holy Scriptures. I never have contended that it was. It is the doctrine. It is the doctrine against which contradiction is charged which makes the item. There are two doctrines stated here—contradiction with two doctrines. That is what makes it two offenses. An offense does not merely consist, as was well argued by Dr. Brown the other day, an offense does not merely consist in what is imputed to me. You may impute anything you please to me. That is no offense, unless you can show something in the Westminster Standards and in the Holy Scriptures with

which that is in contradiction. An offense is contradiction with something in the Standards, and that something has to be specified. Now, there are two specifications here of contradiction, and these two specifications of contradiction make two offenses; and I hold that it would be an injustice to me that by a cumulation of votes you might convict me, whereas, if each one were voted upon separately, I would be acquitted. There is the injustice that is involved in trying two offenses under the same charge, and that is the reason of the law of the Book of Discipline that a charge shall set forth only one offense and the alleged offense.

"Now, Mr. Moderator, of course there may be room for a difference of opinion here, but I wish to be entirely frank with this body. I have waived; I have gone as far as I can conscientiously go in waiving objections to the transcending of the general nature thereof in order to get to trial, and, if you will consent in any way you please, either by allowing the committee to make two new charges out of these, or by taking a separate vote upon them, to prevent any injustice in your verdict and to bring about a definite decision, I am agreed. That is all that I ask. I ask a decision which we can consent to, which is clear, definite, and just. That is all. I waive it with that understanding, and I consent to Dr. Alexander's resolution because it accomplishes that. If there is any other way, I will consent to that. But let it be understood that I cannot waive my objections as to transcending the general nature thereof unless you consent to this proposition. If you refuse it, I am obliged to contest the general nature of each one of these charges, and if you overcome me, carry it by appeal to the higher courts. Now, do not force me to this, brethren. Do not force me to this when I am yielding all that I can in the interest of coming speedily to the result, and I am willing to do anything that is just and reasonable in the matter.

"Dr. BOOTH: May I ask Dr. Briggs a question before he takes his seat? I have followed him with great interest and attention. I would ask him if I am right in apprehending that his affirmation in regard to there being two doctrines is, first, one doctrine that the Holy Scripture is most necessary?

"Dr. BRIGGS: Yes.

"Dr. BOOTH: And the second doctrine, that it is the rule of faith and practice?

"Dr. BRIGGS: Yes.

"Dr. BOOTH: I hope the brethren will notice that, because that explains—I seem to feel myself that his request is reasonable. The only objection is that it would involve the preamble or the statement of the charge over again, and I understand that he would be content with the question being taken separately.

"Dr. BRIGGS: That is all I ask.

"Dr. BOOTH: I do not see how, under the circumstances, there could be any objection to that. However, I am not the Prosecuting Committee."

The Presbytery then took the following action by a great majority:

"*Resolved*, That in view of the conditional waiver made by the defendant, the Presbytery, without passing upon his objections to charges 1, 2, 3, 5 and 6, rule that in taking the vote each of the items in these charges, as indicated by numerals in the objections filed, shall be voted upon separately."

Dr. Lampe argued this afternoon that the offence is a doctrine taught by Dr. Briggs. Clearly that is a mistake. The offence is that Dr. Briggs teaches something that is in contravention of an essential and necessary article of Holy Scripture or of the standards of the Church. And if it is asserted that his teaching conflicts with two different doctrines of the standards, then two offences are alleged, and these two offences must be alleged in two different charges. That is my point.

It will be evident to the General Assembly that if in any way the condition on which the waiver was made is removed, that the waiver is removed also. And as the Presbytery of New York did not pass upon the preliminary objections to five of the Amended Charges as insufficient in form and legal effect, but went to trial simply on the basis of the waiver, the whole question of insufficiency of these five charges is raised before this Assembly by the prosecution challenging the agreement.

Therefore the Assembly itself must either consent to the action of the Presbytery on the matter, or itself pass upon the sufficiency of the five charges, before they can be regarded as triable. This General Assembly will hardly do the grave injustice of giving the prosecution all the advantage of the waiver when they deny to the appellee the advantage of the action of his Presbytery on which the waiver was conditioned. The prosecution demand the waiver and also a censure of the Presbytery of New York for agreeing to the waiver with the condition attached. If you sustain this specification, you declare the agreement made between the Presbytery of New York and the defendant an invalid agreement. If it be an invalid agreement, the General Assembly cannot take advantage of it. But the whole trial on the Charges and the final verdict from which an appeal was taken, rest upon this agreement. If you declare it invalid, you make the whole trial invalid and your only honorable course will be to send the case to the Presbytery of New York for a new trial, with the instruction to pass upon and determine the sufficiency of the Charges in form and in legal effect.

We have considered all the objections of the appellants to the action of the Presbytery of New York upon the Preliminary Objections of the defendant. We have seen that the action of the Presbytery was lawful and just. We have seen that a reversal of the action of the Presbytery in these regards would be to endorse the discourteous and dishonorable practices of the prosecutors; and that the effect of such reversal could have no other lawful issue than a new trial in the Presbytery of New York.

II. THE EVIDENCE.

The appellants make ten specifications of objection to the Evidence submitted by the defendant under three Grounds of Appeal. But they are really only two objections repeated five times under different heads.

The appellee has two Complaints to come before the Synod of New York against the evidence offered by the prosecution. You have decided to entertain their objections to his evidence when you cannot entertain his objections to their evidence.

1. *Unsworn Evidence.*

This is the history of the Evidence submitted by the accused from his own writings. The defendant presenting his evidence said:

"Inasmuch as my preliminary objection to the presentation by the prosecution of evidence by the wholesale, and my request for the reading of their evidence, have been overruled by the Presbytery, I submit to your decisions with the reservation of all rights of appeal and complaint, and claim the same privilege for the defendant which you have granted to the prosecution.

"I submit the following documentary evidence 'in so far as it bears upon this case,' reading such portions as I desire to bring before you at this time, and reserving the right to read such other portions as I may desire to use in the several stages of the defence." [See The Case, Part II., pp. 80–108.]

I am not going over all the details of these arguments. The whole extent of it would take fully an hour. I am going to skip all the references to it in the stenographer's report and simply sum up upon it. I think that will make it sufficiently clear.

In the conclusion of the argument before the Presbytery, Dr. Brown said:

'I now move that the documentary evidence offered by the defendant be regarded by the Presbytery as competent evidence.

"Mr. McCook: Before the question is taken, I wish to call attention to the fact that the Prosecuting Committee would require to have an exception noted if that vote is taken in that way to include the testimony which has not been verified.

. . . . . .

"The Moderator: The exception relates to a portion of the evidence taken from his own writings.

The question, then, is upon the motion made by Dr. Brown, that the documentary evidence offered by the defendant be regarded as competent evidence. All in favor of that motion will say aye; opposed, no. Carried." (Stenographical Report, pp. 469–480.)

It is claimed by the appellants that there was Irregularity in the proceedings of the Presbytery of New York in accepting this unsworn evidence.

This is an invalid objection, because Dr. Briggs, acting as the counsel for the defendant, read extracts from printed documents which were sufficiently verified by the submission of the documents themselves to the Presbytery, which documents were not challenged by the prosecution. The defendant was not a witness. He gave no oral testimony and therefore was not required to be sworn as a witness. There is no evidence to show that the Presbytery accepted the statements and explanations of the language used by the accused in any other way than that in which such statements and explanations were presented in printed books and minutes of the Presbytery. The evidence presented by the prosecution was purely documentary—the evidence presented by the defence was purely documentary. There was no place for being sworn as a witness on either side of this case. To have sworn the defendant would have been an irregularity without precedent. It is doubtful whether there was more than a handful of the Presbytery who did not sustain the Moderator in his decision. No one

ventured to test the sense of the court by an appeal from his decision. This General Assembly could not sustain this objection without establishing a new and injurious precedent, namely, that when a defendant who by the law of the Presbyterian Church acts as his own counsel, undertakes as a counsel to submit in evidence printed documents, he must take the oath that these documents express his real opinions before they can be admitted in evidence. The prosecution wish to push the defendant to the bar as a criminal, and to deprive him of the privilege of counsel and of the rights of counsel.

Exactly the same specification appears as sustaining the second ground of Appeal, namely, receiving improper testimony. This is invalid for the reason that documentary evidence is proper testimony and that it is not a legal procedure to require the counsel of a defendant to be sworn as to the truthfulness of the matter contained in such printed documents of the defendant as he may present as evidence in the case.

This specification appears in another form under the same ground of appeal as specification third.

The Presbytery could not lawfully do otherwise than it did. It could not refuse to admit documentary evidence as lawful and competent. It had no right to require that the counsel who offered these documents should be put under oath simply because the evidence was taken from the writings of the accused.

These same specifications again do service as specifications 5 and 6 to sustain the fifth ground of Appeal, alleging that there was mistake or injustice in the decision of the Presbytery. These are invalid because the Presbytery was bound to consider the documentary evidence offered by the defence, no less than the documentary evidence offered by the prosecution. The evi-

dence by the prosecution is simply and alone documentary evidence. If it be necessary that documentary evidence should be sworn to be valid, then the prosecution have no valid evidence. They ask you to receive their unsworn documentary evidence as valid and to reject the unsworn documentary evidence of the defendant as invalid. Their documentary evidence consists chiefly of the writings of the defendant. Are unsworn extracts from the writings of the defendant to be accepted as valid evidence against him, and unsworn extracts from his writings to be rejected as invalid evidence for him?

Let the General Assembly take that position and you have no valid evidence in the case as regards the opinions of the defendant. He has not sworn to the extracts from his writings given by the prosecution in their specifications. He has admitted them, it is true, but not under oath. Are his admissions of extracts from his writings when not under oath to be regarded as valid; and his assertions of extracts from his writings when not under oath to be regarded as invalid? Are his statements to be accepted as valid when they seem to favor the prosecution; but to be rejected as invalid when they seem to favor the defence? Such justice is one-eyed and that one eye looks unflinchingly to one side. Let the General Assembly take that position and the appellee challenges your entire evidence. You must throw the case out of court as destitute of evidence, or send it back to the Presbytery with instructions requiring that the evidence on both sides be sworn evidence.

Consider the situation that would arise if the defendant should yield to the opinion of the prosecution and give his consent to take the oath as regards the extracts he presented in evidence from his writings; then he

would authenticate his own evidence, but the evidence of the prosecution would remain unauthenticated. For you cannot by any process of law compel the defendant to take the oath to verify extracts from his writings made by the prosecution. You cannot compel him to incriminate himself or to assist the prosecution in the evidence they proffer for the purpose of convicting him.

One word more before leaving this subject. The extracts from the writings of Dr. Briggs and from the minutes of the Presbytery presented in the evidence by the defense are not challenged by the prosecution as to their reality or their truthfulness. Search their arguments before the Presbytery and you will find that they do not dispute them as forged or falsified or untruthful. Indeed they themselves do not hesitate to use many of the same extracts in argument. Mr. McCook simply claimed that the oath should be administered in order to make them valid in law. He raised a question of legal validity, not a question of historical validity, or of moral validity. Had the Presbytery of New York any reason to doubt the truthfulness of these extracts? Has this General Assembly any reason to doubt them? Granted for argument's sake that Dr. Briggs made a technical mistake in refusing to be sworn, and that the Presbytery of New York made a mistake in law in declining to put him under oath; such mistakes do not disturb the equities of the case. For the Presbytery could not equitably refuse to consider the evidence proffered in these extracts and they ought to have made their final judgment on the basis of the "affirmations of loyalty made by the defendant to the Standards of the Church, and to the Holy Scriptures as the only infallible rule of faith and practice." They ought to have made their final judgment in view of the explanations made

by the accused of the language used in his Inaugural Address, and of his "frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations." They would have done the defendant a grave wrong if they had refused to consider all these important parts of his evidence, simply because they were unsworn. Could you overturn the verdict of acquittal because of such a technicality as this?

Let us look at it in the concrete. If you should throw out the copy of the Inaugural submitted by Dr. Briggs, you still have before you the copy submitted by the prosecution.

The prosecution in their evidence cite from the Inaugural the sentence:

"There are historically three great fountains of divine authority—the Bible, the Church and the Reason." (p. 27.)

The defendant cited in his evidence the following extract from the same edition of the Inaugural put in evidence by the prosecution:

"When it was said, 'There are historically three great fountains of divine authority—the Bible, the Church and the Reason'—I did not say, and I did not give any one the right to infer from anything whatever in the Inaugural Address or in any of my writings, that I co-ordinated the Bible, the Church and the Reason." (pp. 85–86.)

The prosecution cite from the Inaugural the extract:

"There is no authority in the Scriptures, or in the creeds of Christendom, for the doctrine of immediate sanctification at death." (p. 54.)

And again from the appendixes:

"There is no authority in the Scriptures, or in the creeds of Christendom, for the doctrine of immediate sanctification at death. The only sanctification known to experience, to Christian orthodoxy, and to the Bible, is progressive sanctification. Pro-

gressive sanctification after death, is the doctrine of the Bible and the Church; and it is of vast importance in our times that we should understand it and live in accordance with it."

The defendant quotes from the same appendix:

"The views that I have expressed with regard to sanctification after death should be carefully distinguished from the Roman Catholic doctrine of Purgatory on the one side and the Arminian doctrine of Probation on the other side. Both of these I reject. I build on the Biblical doctrine of the Middle State and the invariable statement of the New Testament that the second advent of Jesus Christ is the goal of Sanctification. Rom. viii. 29-30; 1 Cor. i. 8; Eph. iv. 13-26; Phil. i. 6; 1 Thess. iii. 13, v. 23; 2 Peter iii. 13-14; John iii. 2-3. There is not a passage in the Bible that teaches either directly or indirectly immediate sanctification at death." (p. 86.)

Ought the Presbytery to have accepted the unsworn extracts from the Inaugural made by the prosecutors as valid, and to have rejected the unsworn extracts from the same Inaugural made by the defence as invalid? Who could think for a moment of such a thing?

2. THE EVIDENCE PRESENTED BUT NOT READ.

Five specifications of error are given by the appellants under two grounds of appeal. But there is really only a single act of the Presbytery which is objected to, namely, the acceptance by the Presbytery of evidence which was presented but not read. I shall omit the long argument in the Presbytery on this head, and content myself simply by asking Dr. Brown to read the answer to the protest of Elder Ketchum and others made by the Presbytery of New York.

Dr. Brown read as follows:

"The Presbytery desires to record the following answer, in accordance with Section 106 of the Book of Discipline, to the protest signed by A. P. Ketchum, W. G. T. Shedd, George L.

Shearer and others, against action of this Judicatory relating to the record of evidence in the case of the Rev. Charles A. Briggs, D.D.:

"I. The Presbytery calls attention to the fact that, although the protest is declared to be made against 'injurious and erroneous acts and proceedings,' it cites but one act against which protest is lawful. Section 104 of the Book of Discipline gives to members of a minority the right to protest. A minority exists only when some question has been decided by a majority vote. The only such action related in the protest is the vote of the Presbytery to strike out the record of a request made by the Prosecution. Against this action only, among the proceedings set forth in the protest, is the protest lawful. But it is noteworthy that, of the four reasons assigned by the protestants, not one relates to the question whether the Presbytery erred in striking out the record of this request. The reasons, therefore, do not sustain the protest, and it might be enough to record this fact as a sufficient legal answer to the protest. But inasmuch as the protest calls in question certain other proceedings, on alleged grounds of justice and order, the Presbytery deems it wise and proper, notwithstanding this technical defect, to cover in its answer all the matters embraced in the protest.

"II. The Presbytery finds the relation of facts in the protest to be incomplete, inaccurate and misleading in several particulars, and desires to supplement and correct it, as follows:

"(*a*) The matter now appearing on pp. 448–468 of the stenographer's official notes, and on the printed sheets inserted at p. 468 of the said notes, and referred to in the protest, was all brought to the notice of the Presbytery, was placed in the hands of each member of the Presbytery and of the Prosecution in printed form, was offered by the defendant as evidence, and was sufficiently described and identified by him.

"(*b*) The defendant was prepared and ready to read the evidence if the Presbytery had so desired, and omitted the reading of it solely to save the time of the Presbytery, already severely taxed.

"(*c*) In this the defendant evidently acted in good faith, and with the simple desire to meet the convenience of the Presbytery, and the Presbytery so understood and acquiesced without a word of dissent.

"(*d*) After the defendant had offered all his evidence, including the evidence which has been made the occasion of protest, the Presbytery voted 'that the documentary evidence which has been offered by the defendant be considered competent' (Minutes of Presbytery, Dec. 5, 1892, p. 384).

"(*e*) The contents of the pages indicated, in the stenographer's report, are therefore not 'new matter which purports to be evidence,' as the protest terms them, nor were they introduced after the time for the lawful introduction of evidence was past, but they are a part of the evidence introduced by the defendant lawfully and at the proper time.

"(*f*) Assuming it to be true that the matter on pp. 448-468 of the stenographer's report was there recorded by the authority of the Moderator, it is evident that the authority of the Moderator, in this, gave effect to the will of the Presbytery indicated by its acquiescence and consent aforesaid.

"(*g*) In addition to his general powers as representative of the Presbytery, the Moderator had the special power vested in him as Chairman and representative of the Committee appointed November 28, 1892, 'to supervise the official stenographer's reports of the proceedings' (Minutes of November 28, 1892, p. 347).

"(*h*) There is no evidence, in the stenographer's notes or elsewhere, that the contents of pp. 448-468 of said notes, or any part of them, were 'inserted' in any other sense than would properly apply to all the stenographer's materials, including his shorthand notes and such written or printed documents as are placed in his hands, which are put into the typewritten form 'in the interval between two sessions of the Judicatory.'

"(*i*) The fifteen sheets of printed matter referred to in the protest were introduced by the direction of the Moderator in open Presbytery, and with the full accord of Presbytery; the Moderator making his decision distinctly, stating it repeatedly, and calling attention to the fact that his decision was subject to an appeal to the house, if any one should appeal; and neither the prosecution, nor any one of the protestants, nor any other member of the Judicatory, made a motion or showed a desire to take such an appeal (Minutes of December 6, 1892, pp. 389, 390; Stenographer's Report, pp. 577, 578).

"(*j*) The Presbytery had previously decided that evidence need not be read to the Presbytery in order to be competent evi-

dence (Minutes November 30, 1892, pp. 362, 370; Stenographer's Report, pp. 297, 314, 364), and the action concerning the evidence now under consideration accorded with that decision.

"(*k*) The Presbytery calls attention to the statement of the protest that 'a motion having been duly made and seconded, that the Judicatory should comply with the request of the Prosecuting Committee and strike out all such matter from the stenographic report, said motion was declared by the Moderator to be out of order, and was not put to the house,' as an erroneous statement, in that, as appears from the stenographer's notes, no such motion was made. The only motion offered in behalf of the prosecution in this matter was the motion to have their request entered on the Minutes; an amendment was offered to the effect that their request be excluded from the Minutes, and the motion passed in this amended form (Stenographer's Report, pp. 582–591, 662–681, 684–696, especially pages 664, 661, and 672).

"III. The reasons assigned for this protest are, as already indicated, totally irrelevant, since they have no connection with the only part of the proceedings referred to against which protest is lawful, viz., the decision of Presbytery to exclude from the record a request made by the prosecution. But they embody criticisms of action taken by the Moderator and the Presbytery, which the Presbytery is unwilling to pass by without notice.

"(*a*) The first 'reason' is in the judgment of the Presbytery an invalid criticism, because, while the stenographer's report of proceedings should be an exact record, that report may and properly should include whatever is received and taken as read or spoken, and so given the effect of read or spoken words. The evidence under consideration was, to save valuable time, offered without reading, and taken as read.

"(*b*) The second 'reason' is in the judgment of the Presbytery an invalid criticism, because no 'new matter' was introduced into the stenographer's notes, because the matter referred to had been brought before the Presbytery, and was properly introduced, and because said matter is actually evidence in the case admitted by the Presbytery as competent. The Presbytery is therefore unable to see how there can be therein anything 'misleading, erroneous and irregular,' or anything 'that may greatly hamper, embarrass, and possibly vitiate the entire judicial proceedings.'

"(*c*) The third 'reason' is in the judgment of the Presbytery an invalid criticism, because 'the accuracy and integrity of the official stenographic report of the proceedings' were in fact secured by the incorporation of the said matter in the said report, and would not have been secured otherwise.

"(*d*) The fourth 'reason' is in the judgment of the Presbytery an invalid criticism, because the Presbytery is unable to see how 'the entire record of this important judicial case may be rendered invalid and ineffectual' by the action criticised, unless the incorporation in the record of all the evidence which the Judicatory has admitted as competent, instead of the admission of a part and the exclusion of a part, should have the effect of making the record 'invalid and ineffectual,' which seems absurd.

"IV. Although a protest, with relevant reasons, against the action of the Presbytery in excluding the record of the request of the prosecution from the Minutes of Presbytery, would be technically in order, it seems surprising that any one should suppose the record of the request to be admissible.

"(*a*) No action on the request was taken, or even proposed, and the Minutes do not include a record of action not taken.

"(*b*) The request was to the effect that the said twenty pages of the stenographer's notes and the said fifteen additional printed sheets should be stricken from the official stenographic record, 'and that the accused should not be permitted to refer or to use the contents of said twenty pages of stenographer's notes, or of the said fifteen additional printed sheets, or any of the extracts, documents or books in either of them contained, recited or referred to, as evidence upon the trial, or in any manner whatever before this Judicatory'--notwithstanding the facts that the Presbytery had by vote declared this with the other evidence offered by the defendant to be competent evidence, and that it was actually a part of the lawful evidence presented by the defendant, and that the Moderator had explicitly so recognized it, and secured its embodiment in the official stenographic record, as aforesaid, and that no appeal had been taken from the decision of the Moderator that it should be embodied therein, and that for these reasons the prosecution had no right to make the request, and that the Moderator had ruled that the request was not in order; and matters declared not in order have no place in the official record of proceedings.

"(*c*) The attempt to secure the record of the said request under the guise of the record of an exception,—which exception the prosecution were entitled, if they thought best, to take to any part of the proceedings that they disapproved,—was improper and out of order.

"V. Inasmuch as (*a*) the failure to include in the official stenographer's report a part of the evidence which had been offered by the defendant, taken as read by the acquiescence and consent of the Judicatory, and by vote accepted as competent, would have been an irregular act, and one of singular injustice to the defendant; and

"(*b*) The inclusion of the said evidence in the said report involved no wrong, hardship or injustice to the prosecution, and the prosecution had therefore no just ground for desiring that it be not there included, or for seeking to deprive the defendant of his right to use it for the purposes of his defence before the Judicatory, and

"(*c*) The action and the decisions of the Moderator in reference to this matter and the acquiescence of the Presbytery therein appear to have been equitable and right, and

"(*d*) The exclusion of the request of the prosecution from the Minutes, by vote of the Presbytery, was in accordance with precedent and the requirements of the case.

"Therefore, in view of all the foregoing considerations, the Presbytery is unable to see any justification for the protest, or any proper ground for the criticisms contained therein." (Stenographical Report, pp. 1102 *seq.*)

This answer of the Presbytery to the Protest is a sufficient answer to the specifications of the Prosecution.

It is now necessary for me to call the attention of the General Assembly to an interesting incident showing that the Prosecution were hoisted by their own petard, and that their argument through Dr. Lampe would have been in a very sad condition if it had not been for the considerateness of the Presbytery and of the defendant. This is the episode:

"Dr. BRIGGS. And now, Mr. Moderator, I wish to make a request of the Presbytery, namely, that they shall direct Dr.

Lampe to specify what portions of the printed argument put in our hands have not been read on this floor. I make this request —not to exclude any part of his argument from consideration; if they wish to have it incorporated in the stenographic report, I for one shall make no objection—but it is necessary for me to know what I am to except to; and there are matters contained in this printed argument which were not read before us and which I want to except to and which I cannot except to unless they are recognized as before the court. Therefore, I request that Dr. Lampe shall specify what portions of his printed argument have not been presented to the court.

"The MODERATOR: I think that it is a proper request to make.

"Dr. ROBINSON: Dr. Lampe has not got through yet, has he?

"The MODERATOR: No, sir; but he can do that.

"Dr. LAMPE: As to that I will state this. I felt yesterday afternoon under intense pressure. I wanted to get through, and I saw that you wanted me to get through, and I came near making myself sick, and sometimes when I got to a paragraph and saw what it was, I simply gave a paragraph in a sentence. Now I cannot tell every paragraph that I treated in that way. I simply did it out of an intense desire to relieve the house and to relieve myself.

"Now, I will go over the paper and see if I can find those things, but that was my simple aim. I wanted to accommodate the house and get through, and in every instance where I did that I think I gave the true sense of the paragraph. However, if you wish me to go over the Minutes and mark out what I possibly may have left out, I will do so.

"The MODERATOR: I will ask if the stenographer took down your address as you gave it, or whether he followed your printed manuscript, because there is a variation between the stenographer's notes and the printed argument of Dr. Briggs; he having spoken more than is contained in his printed argument, and in this case there is less spoken than will appear in print.

[The stenographer stated that he followed the printed argument of Dr. Lampe, leaving out such portions as Dr. Lampe indicated by pencil memoranda were not read.]

"Dr. BRIGGS: May I state that while I was delivering my argument I furnished the stenographer a copy of it to follow me, and

I delivered some matter orally that I could not have time to have printed. Therefore, the written argument does not embrace everything that I said. But it is all in the stenographer's report, and so soon as I can get a moment's leisure I mean to strike off a page to add to the printed report. But what I am calling attention to now is something different. It is something delivered to you in print which was not spoken orally. I desire to make no difficulty for the prosecution about it. I wish to have it in some legal form so that I may except to it.

"The MODERATOR: Would not this relieve the difficulty: If Dr. Lampe be allowed to incorporate the printed form in the stenographer's notes, just as matter submitted by you has been incorporated?

"Dr. BRIGGS: Yes, if the house will take the same action in his case as it took in my case. I think the house should take the action, however.

"The MODERATOR: The question, then, is for the house to decide, namely, that Dr. Lampe have power to incorporate in the stenographer's minutes the argument in printed form as presented, including the portions omitted in reading. Carried." (Stenographer's Report, pp. 1302 *seq.*)

If the evidence of the defendant is to be excluded, the argument of Dr. Lampe must in common fairness be excluded also. Then the greater part of the case of the prosecution would be destroyed. The prosecution unconsciously fell into the pit their own hands did dig.

> "The monitory touch o' the tether—felt
> By few, not marked by many, named by none
> At the moment, only recognized aright
> I' the fulness of the days, for God's, lest sin
> Exceed the service, leap the line."

Consider the equities of the case. Dr. Briggs presented as a part of his evidence extracts from twenty-three representative scholars. Origen, Jerome, and Augustine among the Fathers; Luther and Calvin among the Reformers; Baxter and Rutherford as representa-

tive Puritans and Presbyterians of the seventeenth century; Van Oosterzee of the Reformed Church of Holland; Sanday, Plummer, Huntington, and Gore of the Episcopal Church; Bruce, Iverach, Charteris, Dods, and Vincent of the Presbyterian Church; Beet of the Wesleyans; Fisher, Cave, Thayer, and Fairchild of the Congregational Churches; Apple of the German Reformed Church—all testifying that there are errors in Holy Scripture. If these extracts are valid evidence, they are invincible evidence in favor of the defendant and against the prosecution. Hence the anxiety of the prosecution to rule them out and of the defendant that they should be considered. Why should the prosecution be so anxious to deprive the accused of his evidence? If he made a mistake in not reading these extracts and the Presbytery made a formal and technical mistake in their action in recording this evidence in the Stenographical Report, is it equitable that the defendant should be deprived of his evidence on that account? His motive for not reading was a good motive, to save the time of the body. No injury was done to any party. The evidence was in the hands of the prosecution and of every member of the court, in printed form.

The defendant presented to the Presbytery the names and the writings of 124 scholars now living and of 23 scholars who, though among the departed, have yet taught during the 25 years since 1866 when the defendant began his studies of Biblical Criticism in the University of Berlin; all of whom hold to the views of the authorship of the Pentateuch and of Isaiah held by the defendant, and charged against him as heresy. These are invincible arguments in favor of the defendant and against the prosecution.

The attempt made by Dr. Lampe this afternoon to

traduce these 124 honored scholars by calling them rationalists and unbelievers was exceedingly unfair and improper. It does not represent the truth of the case. Some of them are rationalists; some of them are as evangelical and orthodox as he is. Why should the defendant be deprived of such important evidence, even if he and his presbytery committed technical mistakes in connection with its presentation?

It is evident that if the prosecution have their way, if you recognize their specifications of error as valid, you will rule out all the evidence proffered by the defendant and will have to decide the case on the basis of the evidence offered by the prosecution, and that evidence alone. If you desire to condemn the defendant at any cost to truth and right, this might be the easiest way in which you can do it. But even if you could justify such a procedure on technical and purely legal grounds, how could you escape the imputation of injustice from an outraged community who would point to all the evidence of the defendant which you excused yourselves from considering because of merely technical mistakes committed by the Presbytery of New York?

You cannot refuse his unsworn extracts and accept theirs. You cannot rule out so much of his evidence as was not read and admit their wholesale evidence which was not read. But even if you could take such an unjust position, the case against Dr. Briggs would rest simply and alone upon the extracts from the Inaugural given as the specification of the Charges. The defendant disclaims the interpretations put upon these extracts by the prosecution. He denies that they present any evidence of the truthfulness of the Charges. You cannot convict him by an interpretation of these extracts which the defendant repudiates as illegitimate, illogical, and untrue.

III. THE ARGUMENT.

Seven Specifications under three Grounds of Appeal have to do with the argument of the defendant and the action of the Presbytery with reference to the argument of the prosecution. There are three alleged errors. We shall review them in their historical order.

1. *The Logic of the Case.*

It is alleged that there was mistake or injustice in the decision of the Presbytery of New York, in the logic of the case, as set forth under Ground 5, specifications 1st and 2d. The appellants represent that the case was such a simple one, so clear and definite and indubitable in its logic that there was no room for a difference of opinion in the Presbytery as to the verdict, and that if there had been no prejudice the judgment would have been: "guilty as charged."

As the prosecution state the logic of the case it was very simple. The Presbytery decided that "if the accused had taught the doctrine with which he was charged, he was guilty of an offence." The accused admitted the facts as set forth in the specifications; therefore the Presbytery should have judged him guilty. That is their argument.

Logic is of essential importance in this case and in all cases. Logic is necessary to all right thinking, to all sound doctrine, to all equitable law and to all good practice. But logic, like all true and good things, has many counterfeits and shams. A little experience in this world teaches us all that, none are so illogical as those who boast of their logic. If you would find an illogical man you will find him in one who constructs a syllogism and points you to the conclusion that you must make or be

regarded as illogical and prejudiced. True logic needs no defence, no advocate. It is as clear and bright and convincing as the beams of sunlight. The logic of the appellants is at fault just exactly where the faults always appear with these logicians, namely, in their premises. Like other pretended logicians they are so infatuated with the certainty of their conclusions that they have neglected to verify their premises.

(1). *It is said in their minor premise that the defendant admitted the facts as set forth in the several specifications.* This premise is a false premise. The defendant did not admit the facts. What are facts according to law? The Book of Discipline prescribes:

"The Charge shall set forth the alleged offence; and the specifications shall set forth the facts relied upon to sustain the Charge." (15.)

The law requires that the specifications shall set forth the facts. It is argued by the prosecution that inasmuch as the defendant admits the extracts contained in the specifications; therefore he admits the facts. This is their logic, but it is leap logic. These prosecutors are skilful jumpers. True, the law requires that the specifications shall set forth the facts; but do they set forth the facts? Here is another assumed premise. If it be true that the defendant admits the extracts, are the extracts facts, or does he admit that they prove the facts? Here again these marvellous logicians take for granted their premises. None of them is true.

It is easy to show that the specifications do not contain the facts relied upon to sustain the Charge and the appellee did not admit the facts. The appellee admits that the proper course under ordinary circumstances would have been for him to show that the specifications did not contain the facts, when he made his Preliminary

Objections. The reason he did not take this course was that he yielded to the desire to get at the merits of the case as soon as possible and therefore made no more legal objections than were necessary to guard his interests at the start and because he saw that without imperilling his rights he might make this additional objection in his defence. There is no statute law and there is no common law in the Presbyterian Church which compels a defendant to make all his legal objections to Charges and Specifications prior to trial. The course which the defendant pursued was not in his own interest, but in the interest of the Presbytery of New York. But in the course of his argument in Defence, the defendant called attention to the specifications as not containing the facts required in the law of specification. The Presbytery permitted him so to do. The Prosecution took no exception to this procedure. Therefore it must be regarded as valid. All this is plain from the following extract from the Defence:

"(2) The doctrines attributed to me are as follows:

"(*A*) 'The Reason is a fountain of divine authority, which may and does savingly enlighten men, even such men as reject the Scriptures as the authoritative proclamation of the will of God and reject also the way of salvation through the mediation and sacrifice of the Son of God as revealed therein.'

"(*B*) 'The Church is a fountain of divine authority which, apart from the Holy Scripture, may and does savingly enlighten men.'

"(*a*) The prosecution are obliged to prove these doctrines in their specifications, by extracts from the Inaugural. There are two specifications under each charge. These specifications consist of four groups of extracts from the Inaugural. These extracts are properly proofs of some fact that the prosecution should state. But what do they propose to prove? They do not tell us in their specifications. If the extracts are statements of fact such as the law of specification requires, where are the

proofs of the fact? If they are proofs, where are the statements of fact?

"(*b*) But suppose we take them as both facts and proofs of fact, inasmuch as they are extracts from the Inaugural. We are then obliged to consider the question of their relevancy to the charge. I am obliged to admit these extracts, and you are obliged to vote that the specifications are true so far as the extracts are concerned. But what is it that they prove? How are you to bring them under the charge? Consider the effect of these extracts upon the several members of the court. I take it that my statement that 'Martineau could not find divine authority in the Church or the Bible, but did find God enthroned in his own soul,' is objectionable to many of you. You may think me guilty of error or of indiscretion in making such a statement. You might desire to condemn me on that account. Would you then be justified in voting to sustain the charge for that reason? On consideration you will see that there are several links in a chain of argument before you can attach this statement about Martineau to the doctrine attributed to me. You ought to test all the links of this chain before you can honorably condemn me as guilty of the charge. This testing ought to be made under the specification. The only way to accomplish this under present circumstances is to insert in these specifications the doctrine attributed to me in the charge." (*The Defence*, pp. 29–30.)

. . . . . .

"Only by thus inserting the statement of fact can you vote intelligently upon this specification. This is the form in which I shall bring the question before you.

"(*c*) We have simply to determine whether the doctrines attributed to me are sustained by the extracts given from the Inaugural. I admit the statements that 'the Reason is a fountain of divine authority,' and 'the Church is a fountain of divine authority.' But I deny all the rest of the doctrines attributed to me in the form and in the language in which the prosecution state them in these two charges. They do not prove and they cannot prove from the Inaugural that I teach that men who reject the Scriptures and the salvation through Jesus Christ are savingly enlightened by the Reason or by the Church. There are no express statements to that effect in the Inaugural. There are no statements which by logical deduction involve such conclu-

sions. You cannot hold me responsible for any inferences made from my statements by the prosecution or by yourselves, whether such inferences appear valid to you or not. There are several invalid assumptions which the prosecution are forced to make before they can convince you even by indirection of the validity of such inferences.

"(3) I shall waste no time in an attempt to expound the doctrines which have been invented by the prosecution and wrongly attributed to me, but I shall proceed to the main question in han ." (*The Defence*, pp. 30-31.)

It thus appears that the defendant challenged the specifications. He called attention to the specifications as merely giving extracts from the Inaugural and not stating what the facts were which these extracts were cited to prove. The appellee calls your attention to an extract from the standard authority in Presbyterian law, the same extract given in my demurrer in 1891:

"A Libel is a Law Syllogism, consisting of the Proposition or Relevancy, which is founded upon the Laws of God, or some Ecclesiastical Constitution agreeable thereto, as, whosoever is absent from publick Divine Service on the Lord's Day, ought to be censured. The Second Part consists of the subsumption or probation, which condescends on matter of Fact, viz., But such a person did, upon such or such a Lord's Day, absent unnecessarily from the publick Worship of God. The Third Part consists of the Conclusion or Sentence, which contains a Desire, that the Profaner of the Lord's Day, according to the Laws and Customs mentioned in the first part, may be Censured."

This is from Walter Stewart's Collections,—the same authority referred to the other day by your Stated Clerk as *Pardovan*.

The specifications ought to have contained the minor premises of the Charges—for only in that way could the specifications be relevant to the Charges. The defendant admitted the extracts. But inasmuch as there was no mention of fact, which these extracts were presented

to prove, he did not admit the facts by admitting the extracts. The court will observe that the defendant took no advantage of the prosecution in this respect. He showed them how the specifications might be constructed and proceeded to his defence against them just as if they had been thus reconstructed and were already in the right form before the Presbytery. If now we put the minor premise of the Charge in these specifications, let us see exactly what the defendant admitted and what he did not admit. The defendant admitted that he taught:

(1). Errors may have existed in the original text of the Holy Scriptures.

(2). Moses is not the author of the Pentateuch.

(3). Isaiah is not the author of half the book that bears his name.

(4). Sanctification is not completed at death.

These four things the defendant admits as his teaching.

But the defendant expressly denies that he taught:

"(*A*) 'The Reason is a fountain of divine authority, which may and does savingly enlighten men, even such men as reject the Scriptures as the authoritative proclamation of the will of God and reject also the way of salvation through the mediation and sacrifice of the Son of God as revealed therein.'

"(*B*) 'The Church is a fountain of divine authority which, apart from the Holy Scripture, may and does savingly enlighten men.'"

Therefore the statement that the defendant admitted the facts when he admitted the extracts in the specifications is untrue. He admitted what ought to have been given as the minor premises of four of the Charges, and he denied what ought to have been given as the minor premises of two of the Charges. But none of these minor premises were in the specifications.

(2). *Let us now consider the major premises of the Charges:*

They should state what the heresy is, namely, contravention of certain essential and necessary articles of the Westminster Confession and of Holy Scripture, which strike at the vitals of religion. Do the major premises state such heresies? It is not sufficient for the prosecution to say so. They must prove their majors as well as their minors.

Dr. Lampe argued this afternoon that anything contrary to Holy Scripture is an offense, even though it be not contained in the Westminster Standards, and that anything contrary to the standards is an offense even if it be not stated in the Holy Scripture. What an absurd position! There is not a man in this Assembly that might not be prosecuted for heresy by some ambitious prosecutor on such an extensive ground as this; exposed to prosecution because some ambitious prosecuting committee do not agree with him as to the interpretation of some passage of Holy Scripture or the standards of the Church.

I have stated that it is necessary to prove, in prosecutions, that the doctrine is contrary to an essential and necessary article of the Westminster Confession and Holy Scripture,—of them both. Neither one is lawful alone. That is the only safe position which any one can occupy or which the Church can occupy.

A Presbytery does not endorse the major premise of a charge when it resolves that the proceedings be found in order and that the charges and specifications be considered sufficient. This is the error of the prosecution. The sufficiency is simply according to the book, section 22, to put the accused on his defence, and that is all. Indeed, the chief argument throughout the defence was

to show that these major premises were not valid. The Presbytery listened to his arguments. They were not excepted to by the prosecution. Therefore this procedure is now unassailable.

Consider the position in which the prosecution had placed themselves by their invalid charges and specifications. They put all the proofs from Scripture and Confession under the specifications when they ought to have put them under the charges. The Presbytery directed them to make the transfer, not in the interest of the defendant, but in the interest of orderly procedure. The prosecution appeal to you to reverse this transfer. It is not in the interest of the appellee that you should refuse them; for if the proofs from Scripture and Confession belong under the specifications, then the facts which these citations should prove belong under the specifications likewise. Then the major premises of the Charges belong to the facts relied upon to sustain the Charge. If that be so, then these facts were certainly not admitted by the defendent. Grant them their claim as to the proofs and they forge the weapon for the destruction of their other claims as to the admission of the defendant and you would be obliged to recognize that the defendant admitted none of the specifications. If, however, the proofs from Scripture and Confession belong under the Charge, then it is necessary that these proofs should be used to sustain the major premises of the Charge, or else these premises are destitute of proof. It was an essential part of the argument to so use them. There can be no valid premises and therefore no valid conclusion without them. In either case the logic of the prosecution is leap logic.

Let us now bring before us what was the exact situation with regard to these major premises of the Charges.

The prosecution allege conflict with seven essential doctrines of the Westminster Standards and of Holy Scripture.

A. The defendant admitted these as essential doctrines:

(1). Holy Scripture is most necessary.

(2). Holy Scripture is the rule of faith and practice.

(3). Holy Scripture is the word of God written.

(4). Holy Scripture is immediately inspired.

He also claimed that he himself held to these doctrines and in no way contravened them by his teaching.

B. The defendant admitted that these are doctrines of the Confession:

(1). Holy Scripture evidences itself to be the word of God by the consent of all the parts.

(2). The infallible rule of interpretation of Scripture is the Scripture itself.

He also claimed to adhere to these doctrines although he denied that they were essential doctrines.

C. The defendant denied that it was an essential doctrine or that it was any doctrine of the Westminster Confession or Holy Scripture: "That the souls of believers are at their death *at once* made perfect in holiness." He admitted the phrase "at their death made perfect in holiness," but he denied the phrase "*at once*," which the prosecution arbitrarily inserted in the Westminster definition in order to point their interpretation of it.

It will thus be plain to the General Assembly that the defendant claimed that he himself holds to all of these doctrines of the Westminster Confession except the doctrine contained in the words "at once" which the prosecution added to the confessional statement. He also admitted that four of them were essential doctrines.

(3). It is claimed by the prosecution that the Presbytery, when it resolved that the Charges were sufficient, determined *the relevancy of the major and minor premises.* It determined the relevancy so far as "to put the accused on his defence," but it did not determine the relevancy so far as to close the question to argument. Possibly this question of relevancy might better have been raised in the Preliminary Objections. I think so myself. I thought so before the argument was made. If the defendant had taken this course, the trial would probably never have taken place, or if it had taken place it would have been prolonged because of the necessity of going over the whole ground of the case twice, first under the question of relevancy, second under the defence. The defendant was not shut up to such procedure. He deliberately preferred the course which he pursued, not in his own interest, but to meet the desire of the Church to get at the merits of the case as soon as possible. He was within his rights in that procedure. He did not discuss the relevancy of the premises under his Preliminary Objections. But he did discuss it in his Defence. His arguments under this head were not questioned by the Presbytery—they were not questioned by the prosecutors. No exception was taken to them. They must be regarded as valid and receive the attention and consideration that is their due from the General Assembly.

These were the arguments of the defendant under this head of relevancy:

"The charges have three parts: (1) the doctrines stated as the essential doctrine of the Holy Scriptures and the Standards of the Presbyterian Church in the United States of America; (2) the doctrines attributed to me; and (3) the charge that the doctrines attributed to me 'are contrary to the said essential doctrines.'

"Let us test these three parts in their order.

"(1). The essential doctrine of our standards is said to be 'that the Holy Scripture is most necessary, and the rule of faith and practice.'

"It is plain that two doctrines are here stated. The two doctrines are (1) 'that the Holy Scripture is most necessary,' and (2) 'the rule of faith and practice.' These two doctrines might have been embraced under a more general statement of doctrine if the prosecution had chosen to do so. But in fact they state them as two different doctrines. You have decided to try them together, but to vote on each charge separately.

"I admit that the doctrine, 'that Holy Scripture is the rule of faith and practice,' is an essential doctrine of our Standards and of Holy Scripture. There is no evidence required to prove that proposition in the Charge. I admit that the doctrine that 'Holy Scripture is most necessary' is a doctrine of the Westminster Confession. I am not prepared to admit that the statement of that doctrine in the Westminster Confession is essential in the form of its expression. But whether it be essential or not, is immaterial. I do not care to argue that question, for the reason that I firmly believe that 'Holy Scripture is most necessary' in that exposition of the phrase which the context and the language demand. I subscribe to both of these doctrines entirely, sincerely, and without any reservation whatever. But it is evident that there is a difference of interpretation of these two doctrines between the prosecution and the defendant. They have the right to prove that their interpretation is the necessary interpretation, and that my interpretation is the incorrect interpretation. They have given you no such proof." (*The Defence*, pp. 22–23.)

Then after testing all the passages of Scripture cited by the prosecution, it was said:

"We have examined the nine passages from Holy Scripture cited by the prosecution. Some of them establish the doctrine that Holy Scripture is most necessary, which doctrine we do not deny. But none of them are in conflict with the declarations made in the Inaugural." (*The Defence*, p. 28.)

The prosecution seem to hold the opinion that Holy Scripture is the supreme judge in religion. That

is not the confessional statement. The confessional statement is:

"It is not Holy Scripture which is the supreme Judge, it is the *Holy Spirit*, and the *Holy Spirit* alone. Holy Scripture is that in which the Holy Spirit speaks, and He speaks bearing witness by and with the word in the heart of the believer. The Holy Spirit speaks to the reason of the godly man through Holy Scripture and gives him the ultimate decision in all matters of faith and practice.

"I never taught any other doctrine. If any one thinks that this doctrine conflicts with the doctrine that the Reason is a great fountain of divine authority, he thinks wrongly and is apart from the true lines of logical reasoning. The Confession does not here say that the Holy Spirit does not speak in the Reason apart from Holy Scripture, and so speaking, speak with divine authority. It says that the Holy Spirit is the supreme Judge. He is the supreme Judge wherever and whenever and in whatever form He speaks. The Confession is only concerned to teach that it is when speaking in the Holy Scripture that He is the supreme Judge, and that when so speaking the Church must yield allegiance whatever may have been the decrees of councils or opinions of ancient writers; and that private spirits must obey, whatever the doctrines of men may have been; in other words that Church and Reason must yield to the supreme Judge, the Holy Spirit, when speaking in Holy Scripture. I have not said that the Holy Spirit speaks the final word in the Reason to which the Church and the Bible must yield. I have not exalted the Reason above the Bible. I am no Rationalist. It is the teaching of the Confession to which I subscribe, that the Holy Spirit when He speaks the infallible word in Holy Scripture always speaks through the Scripture to the Reason, and by His inward work in the heart, in the Reason, gives certainty, assurance, and infallible conviction of the truth and grace of God. There is no conflict between Reason and Scripture in such a case. There can be none. *The Holy Spirit unites them in an infallible bond of certainty.*

"The prosecution also cite in evidence several answers to questions in the Catechisms which teach that Holy Scripture is 'the only rule of faith and obedience,' 'the only rule to direct us how we may glorify and enjoy Him.' . . . .

"The aim of the Inaugural Address was not to vindicate the Bible as a rule of faith; certainly not to say anything which could directly or indirectly militate against that essential doctrine. If that had been my aim I would have made it my theme. My aim was to set forth the divine authority of Holy Scripture, and therefore the title given to the Address was 'The Authority of Holy Scripture.' That was its theme, that was the objective point of its argument and its rhetoric. It aimed to remove every stumbling-block set up by the traditional dogma in the way of the authority of Holy Scripture. It endeavored to set forth the authority of Holy Scripture by adducing such evidence from Scripture itself as every reasonable man might understand and estimate at its intrinsic value.

"It is not charged that I deny the authority of Holy Scripture. The complaint is that I do not make the authority of the Bible sufficiently great to be the rule of faith and practice. But this complaint is without justification, for it is not necessary to maintain that the Bible is the only authority in matters of religion, or the only great fountain of divine authority, or the only channel of divine guidance, in order to maintain consistently that Holy Scripture is the rule of faith and practice. May not the light of nature have divine authority? Listen to the Confession:

"'Although the light of nature and the works of creation and providence do so far manifest the greatness and power of God, as to leave men inexcusable.' (I. 1.)

"If the light of nature so manifest the greatness and power of God—does it not bear divine authority?

"Listen to Holy Scripture:

"'For when the Gentiles which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves, which show the work of the law written in their hearts, their conscience also bearing witness and their thoughts the meanwhile accusing or else excusing one another.' (Rom. 1. 19, 20.)

"There is a divine law in the heart and conscience of men. Paul here teaches that this law is divine, but it is not infallible.

"Is it a necessary consequence that 'the rule' should be 'the only great fountain of divine authority'? I claim that the Reason is a great fountain of divine authority and yet not a rule of faith and practice. I shall explain this further on. But I am

not obliged to explain it. It is the duty of the prosecution to prove that there is irreconcilable conflict here. They do not propose this in their charge. They have not proffered any evidence of it. They have simply assumed it, and they have asked you to take *this leap over a chasm of difference in order to give an illogical verdict.*" (*The Defence*, pp. 42-44.)

The Church.

"I DECLARED in the Inaugural that '*The Church is a great fountain of divine authority.*' I make the same declaration in your presence at this time. I shall show you that this declaration is not contrary to Holy Scripture and the Westminster Standards, but on the other hand that it is so important a doctrine of the Holy Scripture and the Standards that to deny it would be heresy.

"I have already tested under the first charge the nine passages of Scripture cited by the prosecution under both the first and the second charges, and I have shown that there is no relevancy in them to either charge.

"I have also considered the several passages of the Westminster Standard which are also the same under both charges, and have shown that they do not teach that Holy Scripture is the sole fountain of divine authority; and that they leave room for the Reason as a fountain of divine authority. It seems unnecessary for me to review them again and show that they also leave room for the Church as a fountain of divine authority. I shall use my time therefore in the positive argument from Confession and Holy Scripture in support of my thesis. The prosecution claim that the doctrine that the Church is a fountain of divine authority is contrary to the doctrines that the Holy Scripture is most necessary, and the rule of faith and practice. It is difficult to understand how any intelligent man *can leap the gulf between these two propositions;* or how any Churchman, Roman Catholic, Greek Catholic, Anglican, Lutheran, Presbyterian, or Congregationalist can deny that divine authority speaks and acts through the Church. If an ancient Puritan or a Westminster divine could descend from Paradise into this Presbytery to-day, he would be filled with astonishment that a Presbytery of a Church that calls itself Presbyterian could have so far abandoned the faith of the Puritan fathers, as to permit the prosecution to

charge a minister with heresy for maintaining that there is divine authority in the Church. I am well aware, as was stated in the book '*Whither?*' that modern Presbyterians have departed far away from the Westminster doctrine of the Church and the sacraments; but who could have imagined that a man would be charged with heresy for holding to the Westminster doctrine and maintaining it against the errors of modern dogmaticians? It is significant that the Westminster Confession gives seven chapters (XXV.–XXXI.) upon the doctrine of the Church and the sacraments, doctrines as essential and necessary to the system of doctrine taught in the Westminster Confession as the doctrine of Holy Scripture contained in the first chapter. The prosecution do not cite against me a single sentence from these seven chapters when they charge me with error in teaching that the Church is a fountain of divine authority. If this be an error, it touches the doctrine of the Church as well as the doctrine of Holy Scripture, and one would expect to find something in these seven chapters that would give the Westminster decision of this most important question. To these chapters I sincerely subscribe, and I challenge the sincerity of the subscription to these chapters of any man who denies that the Church is a fountain of divine authority." (*The Defence*, pp. 67–69.)

Co-ordinating the Fountains.

"I said in the Inaugural that 'Men are influenced by their temperaments and environments which of the three ways of access to God they may pursue.' This was made the ground of a distinct specification under the original 1st Charge. The sentence is cited among the extracts in the specification, and may therefore be regarded as one of my declarations which is offered as contrary to essential doctrine. It will explain my meaning over against misrepresentations of it which were made in Specification IV. of the original first charge and in the argument of the prosecution.

"I did not say that men were determined by their environments, but influenced by their environments. No man ever came to God without the prevenient call of God's Spirit. No one ever found God in the Reason until God Himself entered into the Reason to make Himself known there. No one ever found God in the Bible until the Holy Spirit pointed the way. No one ever

found God in the Church, until Christ's touch opened his eyes. Men are indeed influenced by their temperaments and environments. That is a matter of common experience. All are not Churchmen; all are not Evangelicals; all are not Rationalists. But all may be Christians, using each one the avenue of religion most familiar to him and most suited to him. But in any case it is the divine Spirit who determines when, and where, and how the effectual call shall be made; and when, and where, and how the transforming grace shall be imparted and the infallible assurance of faith bestowed.

"It is said that I am co-ordinating the Bible, the Church, and the Reason. The prosecution did not put this in their charge. But they have put it into the minds of some of this court in their argument and it may influence your decision.

"I call attention to the fact that I have denied more than once that I co-ordinated the three fountains of divine authority. I denied it in the Appendix to the second edition of my Inaugural as follows: 'I did not say, and I did not give any one the right to infer from anything whatever in the Inaugural Address, or in any of my writings, that I co-ordinated the Bible, the Church, and the Reason' (p. 85).

"I denied it again in my lectures on 'The Bible, the Church, and the Reason,' where I said: 'The Churchmen have exalted the Church above the Bible and the Reason. The Rationalists have exalted the Reason above the Bible and the Church. The Evangelical party have exalted the Bible above the Church and the Reason; but no party, so far as we know, has made Bible, Church, and Reason co-ordinate, that is, on the same level, in the same order, of equal, independent authority' (p. 63).

"And again: 'The only persons, so far as I know, who have ever thought of co-ordinating the Bible, the Church, and the Reason as fountains of divine authority, are some recent controversialists who impute to others their own misconceptions, or who, after the manner of scholastic logicians, invent imaginary opponents in order to show their dialectic skill in destroying them' (p. 210).

"You cannot constrain me to accept the inferences of others. You must in law accept my explanations. When I say, 'The Bible, the Church, and the Reason are historically three great fountains of divine authority,' can you rightly infer that I co-

ordinate the three? How about the apostle John in the 1st epistle, v. 8, 9, when he says:

"'For there are three who bear witness, the Spirit, and the water, and the blood: and the three agree in one. If we receive the witness of men, the witness of God is greater: for the witness of God is this, that he hath borne witness concerning his Son.'

"Are the Spirit, the water, and the blood co-ordinate witnesses? Listen to Bishop Westcott.

"Westcott argues that the water and the blood refer not only to the baptism of Christ and the atoning blood of Christ on the cross, but to the two sacraments: 'Just as the Spirit is found to be personal in His work with men, so also the water and the blood speak personally through those in whom their efficacy is realized. The participle expresses the actual delivery of the witness, and this as a present, continuous action. The witness here is considered manifestly as the living witness of the Church, and not as the historic witness of the gospels. Through believers these three, "the Spirit, and the water, and the blood," perform a work not for believers only, but for the world (John xvii. 20 f).'

"'The threefold witness of which St. John has spoken, simply as being threefold, satisfies the conditions of human testimony. Much more then, he argues, does a threefold divine witness meet all claims, and such a witness it is implied we have in the witness of the Spirit, the water, and the blood. This witness, therefore, is "greater" than the witness of men in regard to its authority.'

"Here we have three witnesses giving divine testimony to our Saviour, without any reference to Holy Scripture: two of them the sacraments, and therefore necessarily the Church, one of them the divine Spirit. This passage not only shows that there can be three witnesses speaking with divine authority, and yet not co-ordinate; but it also shows that the two sacraments of the Church bear in them and with them divine authority. This Presbytery will hardly undertake to declare Bishop Westcott a heretic, especially when Luther and so many of the Fathers are at his back. (*The Defence*, pp. 81–83.)

What is Plenary Inspiration?

"I agree to the doctrines (1) that 'Holy Scripture is the Word of God written'; (2) 'immediately inspired'; and (3) 'the rule of faith and practice.'

"Do these statements necessarily involve the doctrine that there are no errors in Holy Scripture? (*a*) The doctrine that 'the Holy Scriptures are the rule of faith and practice' clearly does not involve that 'the Holy Scriptures are the rule in matters other than faith and practice.' If I find fallibility in Holy Scripture in matters of faith and practice, I am inconsistent with the Confession. But, in the Inaugural, I expressly disclaimed such fallibility. This disclaimer is recognized in the citations from my Inaugural given by the prosecution:

"'The Bible has maintained its authority with the best scholars of our time, who with open minds have been willing to recognize any error that might be pointed out by historical criticism; for these errors are all in the circumstantials and not in the essentials; they are in the human setting, not in the precious jewel itself; they are found in that section of the Bible that theologians commonly account for from the providential superintendence of the mind of the Author as distinguished from divine revelation itself. It may be that this providential superintendence gives infallible guidance in every particular; and it may be that it differs but little, if at all, from the providential superintendence of the fathers and schoolmen and theologians of the Christian Church. It is not important for our purpose that we should decide this question. If we should abandon'—[I did not say I did abandon. I am speaking as an apologist. 'If we abandon] the whole field of providential superintendence so far as inspiration and divine authority are concerned, and limit divine inspiration and authority to the essential contents of the Bible, to its religion, faith, and morals, we would still have ample room to seek divine authority where alone it is essential, or even important, in the teaching that guides our devotions, our thinking, and our conduct' (p. 22).

"The only errors I have found or ever recognized in Holy Scripture have been beyond the range of faith and practice, and therefore they do not impair the infallibility of Holy Scripture as a rule of faith and practice.

"But it is claimed that if I recognize errors in matters beyond the range of faith and practice, I excite suspicion as to the infallibility of Holy Scripture within the range of faith and practice. You are entitled to that opinion for yourselves, but you have no right to force your opinion upon me. The Confession does not say 'rule of all things,' but 'the rule of faith and practice.' You must judge by the Confession, not by your fears, or your impressions, or by the conclusions you have made. But is it true that fallibility in the Bible in matters beyond the scope of the divine revelation impairs the infallibility in matters within the scope of divine revelation? We claim that it does not. The sacred writings were not composed in heaven by the Holy Spirit, they were not sent down from heaven by angel hands, they were not committed to the care of perfect men, they were not kept by a succession of perfect priests from that moment until the present time. If these had been the facts in the case, we might have had a Bible infallible in every particular. But none of these things are true. God gave His Holy Word to men in an entirely different way. He used the human reason and all the faculties of imperfect human nature. He used the voice and hands of imperfect men. He allowed the sacred writings to be edited and reedited, arranged and rearranged and rearranged again by imperfect scribes. It is improbable that such imperfect instrumentalities should attain perfect results. It was improbable that fallible men should produce a series of writings infallible in every respect. It was sufficient that divine inspiration and the guidance of the Holy Spirit should make their writings an infallible rule of faith and practice, and that the divine energy should push the human and the fallible into the external forms, into the unessential and unnecessary matters, into the human setting of the divine ideals. As the river of life flowing forth from the throne of God, according to Ezekiel's Vision, entering into the Dead Sea quickens its waters and fills them with new life, so that 'everything shall live whithersoever the river cometh' . . . 'But the miry places thereof and the marshes thereof shall not be healed' (Ez. xlvii. 9–11); so may it be with that divine influence which we call inspiration when it flows into a man. It quickens and enriches his whole nature, his experience, his utterance, his expressions, with truth and life divine, and yet leaves some human infirmities unhealed in order that the revelation may be essen-

tially divine and infallible, and yet bear traces of the human and fallible into the midst of which it came.

"You will sometimes hear the proverb cited: 'Falsus in uno, falsus in omnibus.' But this ancient proverb has no manner of application to the matter in hand. It does not refer to errors of ignorance or inadvertence, but to errors of deceit and falsehood. If it could be shown that the writings of the Old Testament, any of them, were written with the intent of deceiving and misleading men, then we could not trust them as infallible in matters of faith and practice. But the errors that have been found in the Bible are not errors of deceit but of inadvertence, not of falsehood but of lack of knowledge. A witness in a court of justice is not rejected because he betrays ignorance and slips into errors of detail, which may have resulted from carelessness and inattention. His evidence is all the stronger for these marks of simplicity and the faults of common people. A witness who makes no mistake is open to suspicion, lest his testimony may have been prepared for the occasion by his advocate or himself. Historical documents are not cast aside as worthless because they contain errors. No historic document can be found that is altogether infallible. Even the Pope of Rome does not claim infallibility in all things, in his utterances at the table and on the street, in his conversation with his friends about literature, art, science, or philosophy, war, or finance, but only when sitting in the chair of St. Peter he speaks, *ex cathedra*, as the vicar of Christ, in his official position as the supreme head of the Church in matters of faith and morals. I refer you to the testimony presented to the court and read from 'Biblical Study,' pp. 240–243, and 'The Bible, the Church, and the Reason,' pp. 115–117, as setting forth the views which I have held for many years on this subject, and I ask you to consider whether they are in conflict with the Biblical or Confessional doctrine of the rule of faith.

"It is evident that I and others can hold that Holy Scripture is 'the only infallible rule of faith and practice,' and yet hold that there are errors in Holy Scripture in matters that do not in any way impair its infallibility in matters of faith and practice.

"(*b*) The charge of the prosecution is, that errors in Holy Scripture conflict with the essential doctrine that 'Holy Scripture is the Word of God written.' The prosecution may think

that there is conflict here, but they are mistaken. The reason why they see conflict is because they interpret 'Word of God written' differently from what I do. They put into this doctrine in their original Specification, 'true and full inspiration,' meaning so far as we can determine—(1) Plenary inspiration; (2) Verbal inspiration; (3) Inerrancy. Let me remark at the outset that although I admit the phrase 'true and full inspiration,' it is not a phrase of the Confession or of Holy Scripture. The only phrase of the Confession used by them in this statement is 'the Word of God written.' I hold to the 'true inspiration of the Word of God written,' but I also hold that there are errors in Holy Scripture, and that there is no inconsistency between these statements. The inconsistency is in the mind of the prosecutors because they already include in the term full inspiration, verbal inspiration and inerrancy; whereas I use plenary, or full, in the grammatical and historical sense as referring to the contents of the words. When we say that a lamp is full of oil, we do not mean that the lamp is oil, but that it contains oil in the receptacle which it incloses. When I say the Scriptures are full of divine inspiration, I mean that the Scriptures as writings are filled full with an inspired rule of faith and practice, which rule fills and pervades Scripture in all its parts. I have the authority of John Wallis, a clerk of the Westminster Assembly, for this view, when he says:

"'The Scriptures in themselves are a Lanthorn rather than a Light; they shine, indeed, but it is *alieno lumine;* it is not their own, but a borrowed light. It is God which is the true light that shines to us in the Scriptures; and they have no other light in them, but as they represent to us somewhat of God, and as they exhibit and hold forth God to us, who is the true light that "enlighteneth every man that comes into the world." It is a light, then, as it represents God unto us, who is the original light. It transmits some rays; some beams of the divine nature; but they are refracted, or else we should not be able to behold them. They lose much of their original lustre by passing through this medium, and appear not so glorious to us as they are in themselves. They represent God's simplicity obliquated and refracted, by reason of many inadequate conceptions; God condescending to the weakness of our capacity to speak to us in our own dialect.' (John Wallis, 'Sermon,' Lond., 1791, pp. 127, 128.)" (*The Defence*, pp. 88–93.)

The Will of God Committed to Writing.

"(*a*) The Confession represents that . . . . God 'committed wholly unto writing' 'that knowledge of God and of his will which is necessary unto salvation.' This statement I sincerely adopt. But note what was committed 'wholly unto writing': 'the knowledge of God and of his will which is necessary unto salvation'—nothing more; not the knowledge of geography, not the knowledge of chronology, not the knowledge of correct citations, not exactness in names of persons and things, unless you can prove that these are necessary to salvation. This statement of the Confession amounts to nothing more than 'rule of faith and practice'; it is hardly as much, because there are some matters of faith and practice which may not be necessary to salvation. This statement does not touch upon knowledge not necessary to salvation. If there are errors in such matters as are not necessary to salvation, what has that to do with this passage? When it is said that God committed that wholly unto writing, does it teach that God Himself committed to writing, or does it imply the use of holy penmen? Manifestly the latter. If then God used holy penmen to commit this knowledge to writing, you cannot conclude that these penmen did not commit to writing, together with this knowledge of God necessary to salvation, other knowledge which was not necessary to salvation; and if so, you cannot conclude that there were no errors in that matter which these men wrote, unless you can also prove that God commissioned them to commit this also to writing. You cannot prove any such thing from this passage of the Confession which limits itself to 'knowledge necessary to salvation.' Further, 'commit to writing' does not imply any more than that this knowledge of God necessary to salvation is wholly in these writings. It does not imply that the words which contain this knowledge are inspired, or that they may not be connected with human and fallible material." (*The Defence*, pp. 92–93.)

'The Word of God Written.'

"(*b*) The phrase 'the Word of God written,' in the first clause of Section 2d of Chapter I., seems to have great importance in the minds of the prosecution. I fail to see what use they can make of it in proof of the inerrancy of Holy Scripture. This

section gives a list of the canonical books of Holy Scripture and prefaces the list with the statement, 'Under the name of Holy Scripture, or the Word of God written, are now contained all the books of the Old and New Testaments, which are these,' etc.

"This is a comprehensive statement which simply amounts to this: that Genesis, Exodus, and so forth, are books of Holy Scripture, that is, 'the Word of God written.' 'Word of God written' is only an explanation of the term 'Holy Scripture.' It may be that the prosecution have in mind some hidden sense of this passage which they have not yet brought out to the light of day, but, with the best study that I can give it, it amounts to nothing more than that Genesis is the written Word of God, Exodus is the written Word of God, that is, is Holy Scripture, etc., etc. I certainly hold to this. Genesis, Exodus, and the entire list of writings given in this section are the Word of God, constituent parts of Holy Scripture. I do not know why the prosecution cite this phrase unless they think that it is contrary to my statement when I say: 'The Bible, as a book, is paper, print, and binding—nothing more. It is entitled to reverent handling for the sake of its holy contents because it contains the divine word of redemption for man, and not for any other reason whatever' (p. 30). This extract was used in the original Specification. It is left out of the present Charge. But was the Bible, as written by the sacred penmen, a book with paper, print, and binding? We think not. All these are quite modern. What printer was ever inspired, what paper-maker ever communicated divine authority to the paper, what binder ever imparted salvation through his tools to the binding? I gave the true reason for reverent handling of the Bible. My language indeed is only a paraphrase of the first section of the Confession. The Confession says: 'It pleased God to commit the knowledge of God and of his will which is necessary unto salvation wholly unto writing.' I said: 'for the sake of its holy contents because it contains the word of redemption for man.' I do not see how my language could be any nearer to the Confessional language unless I cited the Confession word for word." (*The Defence*, pp. 93-94.)

Holy Scripture is the Word of God.

"(*c*) The prosecution cite Section 4th in order to prove that the Confession teaches that Holy Scripture is 'the Word of God.' There can be no doubt of this. The prosecution seem to interpret it as if it meant that Holy Scripture is so the Word of God that every sentence and word in it is divine and infallible. But the Confession certainly does not say this, and it evidently does not mean this.

"I have shown that we cannot take the statement of one of the three doctrinal standards as of essential importance unless it correspond with the statements of the other documents, and that we must so interpret the varying phrases of the three standards as to get a doctrine which will be consistent with the phrasing of them all. The Larger Catechism teaches that 'the Holy Scriptures of the Old and New Testaments are the Word of God, the only rule of faith and obedience.' But the Shorter Catechism, the last of the three documents to be composed, and which presupposes the other two, teaches that 'the Word of God which is contained in the Scriptures of the Old and New Testaments is the only rule to direct us how we may glorify and enjoy him.' It is evident, therefore, that the Westminster doctrine of Holy Scripture must be so constructed as to enable us to say, 'the Bible contains the Word of God,' as well as to say, 'is the Word.' There are two extremes of statement which are both inconsistent with the Westminster statement. If, on the one hand, you take the statement of the Shorter Catechism and say, Holy Scripture contains the Word of God in its chief doctrines, but there are some doctrines of faith and rules of life which are not the Word of God; then you cannot subscribe to the statement, 'is the Word of God.' So, on the other hand, if you take the statement of the Larger Catechism in such a sense as to say, Holy Scripture is the Word of God in all its parts, thoughts and words, sentences and linguistic expression, then you cannot subscribe to the statement, 'contains the Word of God.' The true Westminster doctrine is the same that we have already seen, that the Bible contains the Word of God in that it contains the rule of faith and practice, and it is the Word of God because this rule of faith and practice so fills and pervades and controls Holy Scripture as to make it to all intents

and purposes the Word of God. As a Westminster divine well says:

"'For the Scripture stands not in *cortice verborum*, but in *medulla sensus*, it's the same wine in this vessel which was drawn out of that.'

"I can sincerely subscribe to both statements, 'is the Word of God,' and 'contains the Word of God,' but I challenge the subscription to the words 'contains the Word of God' on the part of those who insist that 'is the Word of God' means verbal inspiration and inerrancy in every particular. I challenge the subscription to the clause 'contains the Word of God' by the prosecution, when they say, in the language of Dr. Birch:

"'God is the arranger of its clauses, the chooser of its terms, and the speller of its words so that the text in its letters, words, or clauses is just as divine as the thought' (Stenographer's Report, p. 558).

"The blind zeal with which some have recently insisted upon 'is the Word of God' reminds us of Luther's uncharitable conduct at the conference at Marburg. To use the words of Dr. Schaff:

"'Luther first rose, and declared emphatically that he would not change his opinion on the real presence in the least, but stand fast on it to the end of life. He called upon the Swiss to prove the absence of Christ, but protested at the outset against arguments derived from reason and geometry. To give pictorial emphasis to his declaration, he wrote with a piece of chalk on the table in large characters the words of institution, with which he was determined to stand or fall: *Hoc est corpus meum*' ('History of the Christian Church,' VI., p. 640).

"We well know the evil consequences of a divided and distracted Protestantism which resulted from this intolerant and opinionated conduct of the great reformer. Shall we allow men who are pigmies alongside of Luther to plunge our Presbyterian Church into distraction and division by the entering edge of the copula 'is'? In the usage of language, this little word 'is' is capable of a variety of interpretations. 'This is my body' in the words of Jesus is of infinitely more consequence than 'Holy Scripture is the Word of God' in our Confession of Faith. Give heed to the warning of history." (*The Defence*, pp. 95–96.)

Immediately Inspired.

"(*d*) The prosecution cite Section 8th in order to prove the infallibility of the original text of Scripture. The Confession teaches that—

"'The Old Testament in Hebrew and the New Testament in Greek, being immediately inspired by God, and by his singular care and providence kept pure in all ages, are therefore authentical, so as in all controversies of religion, the church is finally to appeal unto them' (I. 8).

"There are three affirmations here: (1) that the original text was immediately inspired by God, (2) that they have been kept pure in all ages and are therefore authentical; (3) they are the final appeal in all controversies of religion. The third statement gives the scope of the others. The Scriptures are the final appeal in religious controversies; matters of faith and practice, not for questions of science. Those who have resorted to the Bible to prove that the sun moved round the earth, that the earth could not be circumnavigated, that the universe was created in six days of twenty-four hours, and the like, have surely gone beyond the range of the Westminster Confession, which specifies controversies of religion. Those zealous defenders of the infallibility of the Scriptures in other like matters of detail outside of the range of religious controversies, apart from matters of faith and practice, will ere long be convicted of similar error.

"(1) The prosecution emphasizes the phrase 'being immediately inspired by God,' which indeed they include in the Charge itself in the clause 'immediately inspired.' The Confession states that 'the Old Testament in Hebrew and the New Testament in Greek, being immediately inspired by God.'

"It is evident that the prosecution rest their case upon the adverb 'immediately.' What does it mean in this passage? 'Immediately' does not refer to the time when the Holy Scriptures were composed, and therefore it has nothing whatever to do with the original autographs. The Confession does not say, 'having been immediately inspired by God,' referring to their origin in the past, but 'being immediately inspired by God,' alluding to their present condition. The doctrine is that the Hebrew and Greek copies, as we now have them in our hands, are immediately inspired by God; they have within them the

divine grace of inspiration, and it is there immediately from God as compared with the translations from the Greek and Hebrew originals, where the inspiration is mediately from God, namely, through the medium of these originals. That this is the meaning of the Confession is clear from the controversial literature of the times when the Confession was composed. . . . . It is evident, therefore, that the adverb 'immediately' gives the prosecution no support for their doctrine that the original autographs were without error. It has nothing whatever to do with such autographs." (*The Defence*, pp. 97–99.)

The Authenticity of Holy Scripture.

"It is evident to any one who takes the pains to compare the Charge with Specification 6th of the first Charge in the original Charges and Specifications, that the prosecution have changed their base. The prosecution originally proposed to prove that Dr. Briggs' assertion, 'that Moses is not the author of the Pentateuch,' was a fact which sustained the Charge that he taught 'doctrines which conflict irreconcilably with and are contrary to the cardinal doctrine taught in the Holy Scriptures and contained in the Standards of the Presbyterian Church, that the Scriptures of the Old and New Testaments are the only infallible rule of faith and practice.' This charge they have abandoned and propose to prove that the 'teaching that Moses is not the author of the Pentateuch' is 'contrary to direct statements of Holy Scripture and to the essential doctrines of the Standards of the Presbyterian Church.' (1) 'That the Holy Scripture evidences itself' to be 'the word of God . . . . by the consent of all the parts,' and (2) that 'the infallible rule of interpretation of Scripture is the Scripture itself.' Here are two charges which you have decided to try together, but to vote upon separately.

"Let me call attention to two principles established at an earlier stage in my argument.

"(1) It is not sufficient to point to direct statements of Holy Scripture, unless the Church has already defined that those statements are *direct*, or it is agreed by the parties that they are direct. I shall show you later on that there are no such *direct* statements of Holy Scripture. But even if I should fail in such proof, it is plain that the Church has not defined these so-called direct statements of Holy Scripture in the Westminster Stand-

ards, and therefore it is not lawful to use them as evidence of an essential and necessary article of the Confession of Faith.

"(2) It is not sufficient for the prosecution to claim that a doctrine is an essential doctrine of the Westminster Standards. They may claim anything and everything. It is necessary for them to prove their claim. The court have doubtless noticed that the prosecution have made no attempt in their argument to present such proof. They have made no use of these passages of our Confession whatever. On this account I ask that you rule Charges IV. and V. out of court as entirely destitute of proof. But I shall find it convenient to use these passages of the Confession myself and turn them against the prosecutors. I admit that two doctrines of our Standards are 'that the Holy Scripture evidences itself to be the word of God by the consent of all the parts,' and 'the infallible rule of interpretation of Scripture is the Scripture itself.' . . . .

"But I fail to see in what respect the doctrine that Moses did not write the Pentateuch contravenes the doctrine of the 'consent of all the parts' of Holy Scripture, or the doctrine that 'the infallible rule of interpretation of Scripture is the Scripture itself.' I am sure that I hold these three doctrines. It may be that the prosecution can convince you that I am inconsistent in holding these doctrines. But they have not thus far ventured to make such an argument, and if they had done so they could not do away with the fact that I do hold these doctrines. You will then have to apply the law of the supreme court in the Craighead case that—

"'No man can rightly be convicted of heresy by inference or implication; that is, we must not charge an accused person with holding those consequences which may legitimately flow from his assertions. Many men are grossly inconsistent with themselves; and while it is right, in argument, to overthrow false opinions, by tracing them in their connections and consequences, it is not right to charge any man with an opinion which he disavows.' (Craighead Case, Minutes of the General Assembly, 1824, p. 122.)

"You cannot convict me in the face of this decision of the General Assembly.

"But let us rise above these legal aspects of the case to the merits of the question. The Confession teaches that 'the infalli-

ble rule of interpretation of Scripture is the Scripture itself.' Accordingly we must resort to Holy Scripture for the infallible interpretation of the question whether Moses wrote the Pentateuch or not. To that we agree, and to that rule we shall resort so soon as preliminary questions can be settled.

"Granting that there is 'consent of all the parts' of Holy Scripture, it is our duty to determine what that consent is. This we shall use every effort to determine. But it is evident to the court at the outset that there is an irreconcilable difference of opinion between the parties who propose to resort to the same tribunal and to seek the same guidance. They try to prove to you that Holy Scripture tells us that Moses wrote the Pentateuch. I, on the other hand, will present to you indubitable evidence that 'the consent of all the parts' of Holy Scripture, and the interpretation of Scripture which is given by Scripture itself, force the conclusion that Moses did not write the Pentateuch. The argument is therefore reduced to the Scriptural argument. But we are confronted at the outset by the principle already established, that the Church has not officially determined the interpretation of these passages of Holy Scripture, and that you cannot by a majority vote in the Presbytery decide which is the correct interpretation. The constitution of the Church forces you to decide by the interpretation of Scripture given in the Confession and to limit your decisions within the strict lines of its decisions. To depart from them and judge me by the interpretation of these passages of Scripture by a majority vote of the Presbytery will violate the constitution of the Church and all the precedents of ecclesiastical process." (*The Defence*, pp. 115-120.)

"Let me sum up my arguments on the Charges IV. and V.

"(1) There is no lawful bridge by which these specifications, 'that Moses is not the author of the Pentateuch and that Isaiah is not the author of half of the book that bears his name,' can be brought under the Charges. Therefore there is no relevancy in the specifications— they cannot be accounted as valid.

"(2) The Westminster Confession of Faith nowhere states that Moses wrote the Pentateuch or that Isaiah wrote the whole of the book that bears his name. Therefore there can be no lawful case against me in the Presbyterian Church.

"(3) The testimony of Holy Scripture in the passages ad-

duced does not show that Moses wrote the Pentateuch and that Isaiah wrote the book that bears his name. Therefore my statements are not in conflict with Holy Scripture and there is no valid case against me on the ground of Holy Scripture.

"(4) Holy Scripture makes it evident that Moses did not write the Pentateuch and that Isaiah did not write half of the book that bears his name. Therefore my statements are true and the prosecution are in conflict with Holy Scripture." (*The Defence*, pp. 150–151.)

Progressive Sanctification after Death.

"This Charge states (1) that it is an essential doctrine of Holy Scripture and of the Standards 'that the souls of believers are at their death at once made perfect in holiness.' But no proof is offered for this essential doctrine under the Charge. We shall consider whether there is any proof for it whatever in Holy Scripture and the Standards. (2) The Charge states that Dr. Briggs teaches 'that Sanctification is not complete at death.' This I may accept as a fairly good statement of my doctrine. (3) The Charge states that my doctrine is contrary to the essential doctrine of Holy Scripture and of the Standards. This statement we shall have to consider. But let me warn the court again that they must confine themselves to the question at issue. They have no right to condemn me on account of any other doctrines taught in the citations from my Inaugural, except the doctrine attributed to me in the Charge, namely, 'that Sanctification is not complete at death.' My doctrine is clearly stated in the following words of the Inaugural cited by the prosecution as part of their specification:

"'There is no authority in the Scriptures, or in the creeds of Christendom, for the doctrine of immediate sanctification at death. The only sanctification known to experience, to Christian orthodoxy, and to the Bible, is progressive sanctification. Progressive sanctification after death is the doctrine of the Bible and the Church.'

"It is claimed by the adversaries that this statement is against the Westminster Standards, which teach 'that the souls of believers are at their death at once made perfect in holiness.' They cite from the Confession, chapter xxxii. (1), from the Larger Catechism, Ques. 86, and from the Shorter Catechism, Ques. 37.

But Dr. Birch in his argument made no use whatever of these passages from our Standards; and Mr. McCook used only one of them, Question 37 of the Shorter Catechism, in order to state that it teaches a doctrine directly contrary to my doctrine. But that was a mere assertion without proof, and no proposal was made to show that that doctrine is an essential doctrine of the Standards. Therefore I ask that you decide in accordance with law and usage in courts of justice and throw out the Charge which is so destitute of proof. But inasmuch as I desire that you should know what is the precise relation of my doctrine to the Westminster Standards, I shall consider these passages. (1) It is true that it is taught in the Shorter Catechism that 'the souls of believers are at their death made perfect in holiness' (37); but it is not said that at their death believers are immediately, in a moment of time, '*at once*' by divine transformation, made perfect in holiness. I can say at their death made 'perfect in holiness' because I believe that the souls of believers at death enter the Middle State, in which state they are made perfect in holiness by progressive sanctification. 'At their death' does not necessarily imply 'in the very moment of the transition from life to death,' or in the exact second of time after the spirit has departed from the body; but 'at their death' is in antithesis with 'in this life,' and means nothing more than 'in the state of death.' 'Made perfect in holiness' does not necessarily imply 'that the sanctification of the soul is instantaneously, in the moment of time after it leaves the body, perfected and completed'; but it is consistent with the belief that the soul is made perfect in holiness in the state of death. The Larger Catechism teaches as follows:

"'The communion in glory with Christ, which the members of the invisible church enjoy immediately after death, is in that their souls are then made perfect in holiness, and received into the highest heavens, where they behold the face of God in light and glory; waiting for the full redemption of their bodies' (86).

"It is not said that their souls are made immediately perfect in holiness after death any more than it is said immediately received into the highest heavens. This question speaks of the communion in glory with Christ which the members of the invisible church enjoy immediately after death. Is that communion limited to the moment of time at death? Does it not

rather continue during the whole time in that state, beginning immediately after death? Immediately after death in this passage means the whole state which begins immediately after death, during which the communion is enjoyed, as we might infer also from the clause 'waiting for the full redemption of their bodies.' What therefore is affirmed as happening immediately after death is affirmed as happening during that state of communion and waiting which begins immediately after death; and not in the moment of time that begins that state. The four affirmations are not of successive chronological events, but of parallel events: (1) 'made perfect in holiness,' (2) 'received into the highest heavens,' (3) 'behold the face of God in light and glory,' (4) 'waiting for the full redemption of their bodies'; all alike refer to the communion in glory with Christ, which continues through this entire state from death to the resurrection. There is nothing in the text or the context of this passage, or in the proof texts of the Confession cited to sustain it, to indicate that 'made perfect in holiness' applies only to the moment of time when the Middle State begins, or that it confines the communion with Christ in the long period of the state which follows the moment immediately after death, to the single thing 'waiting for the full redemption of their bodies.'

"This interpretation of the phrase 'immediately after death' is made probable when we put Question 86 in its context in the midst of the group of Questions 82–90. Question 82 asks:

"'What is the communion in glory, which the members of the invisible church have with Christ?' The answer is: 'The communion in glory, which the members of the invisible church have with Christ, is in this life, immediately after death, and at last perfected at the resurrection and day of judgment.'

"Here then, you observe, are three states in which this communion with Christ is enjoyed: (1) this life; (2) immediately after death; (3) at the resurrection and day of judgment. The communion with Christ is evidently not limited to the point of time immediately after death, but to the state beginning immediately after death and extending up to the day of judgment; for 'in this life' clearly refers not to any single moment in this life, but to the whole Christian state in this life from the moment in which Christian life begins in regeneration until the soul departs from the body at death. So 'at the resurrection and day

of judgment' is not limited to a moment of time when the resurrection and the judgment may take place; but refers to the final state of communion with Christ beginning with resurrection and judgment but extending through all eternity. Accordingly, 'immediately after death,' which intervenes between this life and 'at the resurrection and day of judgment,' is not limited to the moment of the soul's departure into the Middle State, but comprehends the communion with Christ which is the experience of believers from the moment of death till the day of resurrection. The scope of the question makes this certain. Observe the question is: 'What is the communion in glory, which the members of the invisible church have with Christ?' It is extremely improbable that the Westminster divines would limit that communion in the future state to two points of time —first, the moment of death, and second, the moment of resurrection, and leave entirely out of view the millenniums of the Middle State and the eternities of the Ultimate State.

"In accordance with this general statement of Question 82, which we have thus analyzed, there follow separate questions as to each one of these states:

'(83). 'What is the communion in glory with Christ, which the members of the invisible church enjoy in this life?'

"(86). 'What is the communion in glory with Christ, which the members of the invisible church enjoy immediately after death?'

"(90). 'What shall be done to the righteous at the day of judgment?'

"The 'immediately after death' of the specific question has the same meaning as the 'immediately after death' of the general question; and the meaning of the 'immediately after death' of the answer must be the same, all therefore referring to the state immediately after death, and not to the point of time at death. Therefore there is no proof that the clause 'then made perfect in holiness' is to be limited to the very moment of death.

"Furthermore, there are several expressions in these questions and answers which do not agree with the doctrine of immediate and perfect sanctification in the moment of death. The statement 'at last perfected at the resurrection and day of judgment' indicates that the glory of the Middle State is intermediate

glory and not perfected glory. The statement 'waiting for the full redemption of their bodies' shows that the redemption was not yet full nor yet perfected at death, that it could not be full, could not be perfected till the day of judgment. And Question 90 tells us that the righteous will be openly acknowledged and acquitted at 'the day of judgment,' not before; that they 'shall be received into heaven, where they shall be fully and forever freed from all sin and misery; filled with inconceivable joys; made perfectly holy and happy both in body and soul, in the company of innumerable saints and angels, but especially in the immediate vision and fruition of God the Father, of our Lord Jesus Christ, and of the Holy Spirit, to all eternity. And this is the perfect and full communion, which the members of the invisible church shall enjoy with Christ in glory, at the resurrection and day of judgment.'

"Such expressions as these with reference to the day of judgment indicate that 'the perfect and full communion with Christ in glory' is not enjoyed until that time; that then, first, believers will 'be openly acknowledged and acquitted'; that not till then shall they 'be fully and forever freed from all sin'; that not till then shall they 'be made perfectly holy.'

"It is evident, therefore, from these statements of our Standards, that perfect holiness, perfect redemption, perfect communion with Christ in glory, cannot be enjoyed until the decisions of the day of judgment. How can any one be perfectly sanctified who has not attained 'perfect and full communion with Christ in glory,' who has not yet been 'openly acknowledged and acquitted,' and who still has to look forward to the resurrection when for the first he will be 'fully and forever freed from all sin' and made 'perfectly holy and happy both in body and soul'? Those who teach immediate sanctification at death are in irresistible conflict with these statements of the Confession; whereas those who teach progressive sanctification after death and regard the state immediately after death as a state during which men are made perfect in holiness, which progress in perfection reaches its end at the day of judgment, reconcile all these statements of the Larger Catechism into a higher unity, where there is complete and perfect harmony.

"I am well aware that these statements are obscure and capable of such interpretation as to involve them in many inconsist-

encies. I do not claim that the Westminster divines were altogether clear themselves as to these difficult questions of eschatology. I am also aware that many citations can be made from their writings which teach immediate sanctification at death. I have doubtless seen the most, if not all such extracts as can be adduced. But whatever the opinions of any or all of them were on this subject, when they constructed the careful statements of our Standards, they were obliged to keep close to the doctrines of Holy Scripture, and thus it is that their statements, though indefinite and obscure, in no wise come in conflict with the doctrine of progressive sanctification after death, and in no wise teach the error of immediate sanctification at death. The Westminster divines shared the common fault of the Protestantism of the sixteenth and seventeenth centuries in that having thrown aside the Roman Catholic doctrine of Purgatory, and having neglected to revive the ancient Catholic doctrine of the Middle State, they left the Middle State between death and the resurrection in their definitions, but did not carefully distinguish it from the Ultimate State. Accordingly in their creeds, neglecting to make important distinctions and yet adhering closely to Scripture, they did not fall into statements of error; but in their writings failing to observe the distinction made in Holy Scripture between the Abaddon of the Middle State and the Gehenna of the Ultimate State, and between the heaven of the Middle State and the heaven of the Final State, they said many things of the one that belong properly to the other. When, therefore, in accord with many modern Protestant theologians, I advance into this unexplored territory of the Middle State and go beyond the Westminster Confession in my statements and definitions, follow in the lines drawn by the ancient Church and gather together all the teachings of Holy Scripture, and so more carefully distinguish between the Middle State and the Ultimate State, I do not violate the statements of the Confession; I go into regions of liberty and extra-confessional dogma, and in those regions pursue the scientific, historical, and Biblical methods of investigation and statement.

"(2). If any one insists upon rejecting the proof that has been given with regard to the proper interpretation of the phrase 'made perfect in holiness,' his attention is invited to the Westminster doctrine of sanctification, and he is asked, if there be

an inconsistency between the two chapters, which is the more important chapter of the Confession, the one giving the general doctrine of progressive sanctification or the one giving the specific doctrine of immediate sanctification at death under the head of the doctrine of the Middle State? The chapter on sanctification knows no other sanctification than progressive sanctification. Listen to this doctrine:

"'I. They who are effectually called and regenerated, having a new heart and a new spirit created in them, are further sanctified, really and personally, through the virtue of Christ's death and resurrection, by his word and Spirit dwelling in them: the dominion of the whole body of sin is destroyed, and the several lusts thereof are more and more weakened and mortified; and they more and more quickened and strengthened, in all saving graces, to the practice of true holiness, without which no man shall see the Lord.

"'II. This sanctification is throughout in the whole man, yet imperfect in this life: there abideth still some remnants of corruption in every part, whence ariseth a continual and irreconcilable war, the flesh lusting against the Spirit, and the Spirit against the flesh.

"'III. In which war, although the remaining corruption for a time may much prevail, yet, through the continual supply of strength from the sanctifying Spirit of Christ, the regenerate part doth overcome: and so the saints grow in grace, perfecting holiness in the fear of God.' (Chap XIII.)

"This chapter is one of the choicest productions of the Westminster divines. It sets forth truly and accurately the doctrine of Holy Scripture. If the Presbyterian Church had bound this 13th chapter on their heart instead of the 3d chapter, and had made the Scriptural doctrine of sanctification their article of the standing and falling Church, rather than the scholastic dogma of reprobation, what a glorious history they might have had in the last two centuries! There would have been no need of the agonies of the present revision movement. It seems sometimes as if those who insist upon immediate sanctification at death were using the term sanctification in a different sense from the Westminster Standards. Sanctification is sometimes used in the Scriptures and also in theological literature and debate, for that cleansing from sin which takes place in the laver

of regeneration; and again for that induction into a higher Christian life which is effected by the power of the Holy Spirit upon the souls of men at certain crises of their history. I do not question that men are sanctified in the sense that they are washed in the laver of regeneration clean from every corruption, taint, and defilement of sin. I do not doubt that the fountain which flows from the Redeemer's side cleanseth from all sin in the hour of death as in any hour of life, when the sinner opens his heart in faith and repentance to the saving love of Jesus. So again I do not question the higher life that men may attain in this world, when throwing aside every weight of besetting sin, tearing away all the bands of evil habits and associations, dissolving every other tie which might restrain them from God and duty, they consecrate themselves to the service of the Redeemer and with fresh courage strain every nerve of holy resolution, striving for the love of Christ in the passion of self-sacrificing devotion to the Master's service. The divine Spirit lifts up such consecrated ones to a higher plane of religious experience and fills their souls with joy and holy endeavor. I firmly believe that such transformations, long prepared by the Spirit's secret workings upon the soul, may take place immediately in a moment of time, in a happy hour which seems like a second birth, a second resurrection. It is the shooting of the plant of grace above the ground after the long season of sowing and germination in the secret recesses of the heart. It is the springing forth of the blossom in the spring-time after a long winter's secret preparation. That there will be such a transformation at death, the spring-time of a new life, I do not doubt I firmly believe that then there will be a transformation greater than any that is possible in this life. You may call this sanctification if you will, you may say that this is 'being made perfect in holiness,' if that is your meaning, but if you do you have a very meagre and inadequate conception of the sanctification taught in the Holy Scripture and in the Westminster Confession. Christian sanctification is vastly higher, grander, and more glorious than this. According to the Westminster Confession, it is not merely cleansing from sin and rising to a higher grade of Christian life and experience, 'it is being more and more strengthened in all saving graces, to the practice of true holiness.' How can there be the practice of

true holiness except in time of duration? How can there be the practice of true holiness without holy conduct? How can there be holy conduct without Christian activity? How can there be Christian activity without doing and working and serving Christ and the brethren? The practice of true holiness, therefore, must, from the very necessities of the case, follow the transformation that takes place at death—it cannot be a part of it. It is conceivable that believers at their death may be immediately so strengthened in all saving graces as to be perfectly endowed for the practice of true holiness, but it is inconceivable that the practice itself could be immediately imparted. The practice of true holiness cannot be given by God; it must be the exercise and work of man, under the influence of the divine Spirit, and must follow any influence of sanctification at death. But inasmuch as the practice is an essential part of the sanctification and there can be no completeness of sanctification, no perfection in holiness without the practice of true holiness, the completion of sanctification at the moment of death is impossible.

"The Westminster Confession also teaches that 'this sanctification is throughout in the whole man.' The text cited in proof of the position is:

"'And the very God of peace sanctify you wholly, and I pray God your whole spirit and soul and body be preserved blameless unto the coming of our Lord Jesus Christ' (1. Thess. v. 23). It is manifest that according to this text and this statement of the Confession, sanctification embraces the body as well as the soul. Sanctification cannot be completed without the body. It is clearly taught in the Confession, XXXII., that believers are waiting in the Middle State 'until the day of judgment for the full redemption of their bodies.' So the Larger Catechism states that then at the day of judgment 'they shall be fully and forever freed from all sin and misery, filled with inconceivable joys, made perfectly holy and happy both in body and soul.' Wherefore according to the Westminster Standards, the full redemption of their bodies, the sanctification of their bodies, 'made perfectly holy in body and soul,' does not take place until the day of judgment. Therefore sanctification is not throughout in the whole man until the day of judgment. Man cannot, therefore, be immediately and completely sanctified at

death. That measure of sanctification which he receives at death is intermediate between the sanctification in this life and the complete sanctification at the day of judgment. It is furthermore evident that the apostle, in the text cited, is praying, not that God would sanctify the Thessalonians wholly at death, or present them blameless at the hour of death, but 'unto the coming of our Lord Jesus,' that is, the second advent; and what is that but the day of the resurrection of the body and the final judgment?

"If therefore, by any confusion of mind, the Westminster divines have taught in Chapter XXXII., and the corresponding questions and answers of the Larger and Shorter Catechisms, the doctrine of immediate sanctification at death, they have thereby through inadvertence taught a doctrine which is irreconcilable with and contrary to and in conflict with their doctrine of sanctification and their doctrine of the resurrection of the body, and their doctrine of the day of judgment. Can any doubt, in such a case, which passage must give way? Shall we give up three doctrines of greatest importance for the sake of one doctrine of lesser importance?

"(3). I freely grant that the most natural interpretation of the phrases of the Westminster Standards, 'at their death made perfect in holiness,' or 'immediately after death,' is in favor of the doctrine of immediate sanctification at death, though I think that the contexts of the Larger Catechism and the Confession disprove that interpretation. But granting that my interpretation is wrong, the question arises whether the doctrine of immediate sanctification at death is an essential doctrine of the Westminster Confession. Can you regard the doctrine as essential to the Westminster system of doctrine? It is a doctrine in the difficult field of eschatology, where there must be liberty for investigation, statement, and debate, until the Church has matured its Christian experience and defined more closely its faith.

"Is the Presbytery ready to take the position that the dogma of immediate sanctification at death is an essential doctrine of the Presbyterian Church, so that no man can become a Presbyterian minister who does not hold it? If so, you stretch and strain the line of cardinal and essential doctrines to an extent that will be destructive of the peace and prosperity of the

Church. I doubt whether the superior courts will sustain you in such a position, and if they should do this wrong to the Church of God, the Christian world will regard them as breaking the bonds of catholicity." (*The Defence*, pp. 151–161.)

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"The epistle to the Hebrews gives us a glimpse of the Church in the Middle State in these words:

" 'But ye are come unto mount Zion, and unto the city of the living God, the heavenly Jerusalem, and to innumerable hosts of angels in general assembly and to the church of the first-born who are enrolled in heaven; and to God of all the Judge, and to the spirits of just men made perfect; and to Jesus the mediator of a new covenant, and to the blood of sprinkling that speaketh better than that of Abel.' (Heb. xii. 22–24.)

"This passage is cited by the Westminster divines in proof of their phrase 'made perfect in holiness.' And it is their only proof text. Let me call your attention again to the principle laid down in my preliminary objection, that even if the Westminster divines meant to teach the doctrine of immediate sanctification at death, yet if the passage of Holy Scripture on which they rely for proof teach a different doctrine, we are obliged by our subscription vows and by the doctrine of the Westminster Standards to follow Holy Scripture rather than the Confession, and you must judge by Scripture rather than by the Confession. This is said as a guide to those who may not be convinced by the argument I have given you as to the doctrine taught in our Confession. I shall now endeavor to show you that this passage of Holy Scripture does not teach the doctrine of immediate sanctification at death. (*a*) Observe that we have in this passage a scene of great magnificence and glory, an assembly in the heavenly Jerusalem on the heavenly heights of Zion, of the God of all, Jesus the Mediator of the new covenant, the general assembly of innumerable hosts of angels, and the church of the first-born, the spirits of just men made perfect. This festal assembly in the new Jerusalem is in antithesis to Sinai blazing and quaking with terrors. What is there in text or in context to suggest that this is a scene which immediately follows the death of every individual, or that immediately after death every believer is ushered into this festal assembly? What is there in text or context to imply that these first-born from among men,

these just men, these spirits perfected, embrace all believers that have departed this life? What is there in text or in context to imply that these perfected spirits attain their perfection at the precise moment of their death? The prosecution will have to prove these three questionable propositions ere they can use this passage as an evidence that all believers are immediately sanctified in the moment of their departure from this life. They cannot give you any such proof. (*b*) Listen to the opinions of distinguished commentators on this passage. Calvin is one of the commentators who interpret 'spirits of just men made perfect,' of the fulfilment or completion of their earthly life. If John Calvin, the father of Calvinists, the prince of interpreters among the Reformers, be correct in his interpretation, this passage has nothing whatever to do with the question whether sanctification is immediate or progressive after death. Calvin, however, gives his opinion on sanctification after death in his comment upon another passage, where he says:

"'As, however, the spirit is accustomed to speak in this manner in reference to the last coming of Christ, it were better to extend the advancement of the grace of Christ to the resurrection of the flesh. For although those who have been freed from the mortal body do no longer contend with the lusts of the flesh, and are, as the expression is, beyond the reach of a single dart, yet there will be no absurdity in speaking of them as in the way of advancement, inasmuch as they have not yet reached the point at which they aspire, they do not yet enjoy the felicity and glory which they have hoped for, and, in fine, the day has not yet shone which is to discover the treasures which lie hid in hope. And in truth, when hope is treated of, our eyes must always be directed forward to a blessed resurrection as the grand object in view.' (Calvin on Phil., I., 6.)

"(*c*) De Wette represents many commentators who think that these perfected spirits are the martyrs of the old dispensation, the theme of Heb. xi., of whom it is said:

"'And these all, having had witness borne to them through their faith, received not the promise, God having provided some better thing concerning us, that apart from us they should not be made perfect' (verses 39, 40).

"There can be no doubt that our passage is based upon that passage, not only because of the term 'perfected,' but also be-

cause of the 'better thing' which appears in both passages. The 'better thing' of xi. 40, is referred to as that in which Hebrew and Greek martyrs share alike and at the same time; but what it is, is not distinctly stated. In our passage, however, it is the new covenant of Jesus, the Mediator, and His blood of sprinkling. Therefore we must extend the reference of the perfected spirits to the New Testament martyrs as well as to the Old Testament martyrs. The blood of sprinkling gives us the clew to the meaning of perfected here. As Weiss says, the entire usage of the Epistle refers this perfection to that attained through Christ and His sacrifice. We are not to think of moral perfection. Let us recall this usage for a few moments. There are four passages which teach that perfection was not through the Levitical priesthood or the sacrifices prescribed in the law (vii. 11, 19; ix. 9; x. 1). It is then said in antithesis but 'by one offering he [Christ] hath perfected forever them that are sanctified' (x. 14). The 'sanctified' here are, as the present participle shows, to use the words of Bishop Westcott, 'all who from time to time realize progressively in fact that which has been potentially obtained for them.' The perfected spirits here are therefore those who have been perfected by the mediatorial intercession and cleansing of the blood of Christ, and not those who have attained moral perfection, or who have completed once for all their sanctification. It is possible that the prosecution understand by 'perfect in holiness' just this cleansing by the blood of Christ and this equipment in the righteousness of Christ. If this be their meaning I shall not dispute their doctrine, so far as it goes. But the doctrine of sanctification which is in Holy Scripture and in the Westminster Confession is vastly higher than this. It is not merely cleansing from sin; it is the infusion of habits of holiness. It is not merely clothing in the righteousness of Christ; it is the habitual practice of holy conduct and the attainment of an indelible holy character.

"This festal assembly of angels and perfected spirits reminds us of several similar gatherings in the Apocalypse with which this passage seems to be in parallelism: vi. 9–11; xiv. 1–5; xx. 4–6.

"In all these passages the martyrs of the martyr age of the Church are conceived as the first fruits, or the first-born, or partakers of the first resurrection. They have been faithful and

true in their testimony even unto death, they have kept themselves undefiled and without blemish from contact with idolatry, they are virgins as the bride of the Messiah and have not committed fornication with heathen gods, they are clad in the white robes of the priests of God, they live and reign with Christ in the heavenly Zion throughout the complete period of His mediatorial reign, they share the Redeemer's blessedness and glory. But for all this it is not said that they cease to progress in sanctification, or that they have attained moral perfection, or that they have gained that Christlikeness and Godlikeness which is the final goal of redemption and which alone can come according to the apostle John, when the Messiah is manifested in glory at His second advent when the saints are manifested with Him. Then for the first time the rays of the sun of righteousness will shine through every saint and not a mote will be found in those sunbeams. . . . .

"The invariable statement of the New Testament is that the second advent of Jesus Christ is the goal of sanctification. In addition to the passages already considered, I would refer to Rom. viii. 29, 30; I. Cor. i. 8; Eph. iv. 13-16; Phil. i. 6; I. Thess. iii. 13; v. 23; II. Peter iii. 13, 14. There is not a passage in the Bible that teaches either directly or indirectly immediate sanctification at death, or that the completion once and for all of the holy advancement of mankind is accomplished in a moment of time by a magical transformation in the dying hour. The Christian Church has always taught the doctrine of the Middle State between death and the resurrection; and of progress in the holy life after death, in that state. There have been those who taught the sleep of pious souls. Dr. Birch seems to hold that opinion, for he said in his argument: 'All dead Christians are asleep. When we are asleep we show the rest which consists in the inaction of mind and body' (Stenographer's Report, p. 631). Others have held that departed spirits pass a dreamlike existence, with powers of memory of the life in this world, and of anticipation of the resurrection of the body and the judgment-seat of God; but without real activity or change of condition throughout the entire period. But these opinions have always been rejected by the orthodox." (*The Defence*, pp. 170-174.)

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"I have gone over all the Charges made against the doctrines set forth in my Inaugural Address. I have shown that the doctrines taught by me are not contrary to the Westminster Confession, but that they are in accord therewith; that they are not irreconcilable with the Scriptures, but are the product of a comprehensive study of the Scriptures." (*The Defence*, p. 181.)

The Presbytery of New York yielded to the arguments of the defendant. The prosecution did not convince the Presbytery that their premises were valid, or that their conclusions from these premises were valid.

It will thus appear to the court of the Assembly that the appellants did not make out their case in the court of the Presbytery. They failed to set forth the facts in their specifications. They failed to prove their minor premises in Charges I. and II. They failed to prove their major premises in Charges IV., V., VI. They failed to prove relevancy in Charges I., II., III., IV., and V. Therefore the inevitable logic of the case was an acquittal.

One practical word, ministers and elders, before we pass from this subject. I have shown you the position into which these prosecutors are endeavoring to force me and to force you. Granted that I made a mistake in that I did not insist, in my preliminary objections, that they ought to have inserted the facts in their specifications; granted that I made a mistake in my preliminary objections that I did not argue the question of relevancy there; granted that the Presbytery made a mistake in that they did not settle all these preliminary questions before they went to trial; I have given you the reason why this was not done; I have shown you that, notwithstanding all that has been said by the prosecution, all these questions were actually argued by them as well as by the defendant before the court of the Presbytery.

Now I ask you even if all these mistakes have been made, is it fair, is it righteous, is it honorable, for them to try to force the court of this General Assembly, in despite of the facts that I have set before you, to put the case in this form, that the appellee has admitted the facts, the Presbytery has admitted that the charges are relevant, and therefore it had no alternative, and you have no alternative than to vote for the conviction?

2. *The New Matter introduced by Dr. Lampe.*

The next topic that I would have to consider in its order, would be the new matter introduced by Dr. Lampe. If I should go into that matter fully and expose all the injustice of that procedure, and use the argument that I have, it would take fully an hour. I think under the circumstances of the case it is not necessary for me to read those specifications before you or to go into any argument upon this part of the case. I trust that whole question to the good sense of the house.

[The appellee was under the impression that the General Assembly would be consistent with itself and would not sustain this specification of the appeal. But in the rush of the final vote there was no discrimination. It seems necessary therefore to give to the public the argument which he had prepared for the General Assembly.

The report of the Judicial Committee which was adopted, and upon which the appellee relied, was as follows:

"Rev. Dr. BAKER: Mr. Moderator, it gives me great satisfaction to be able to say that this report which the committee are about to present is entirely agreeable to the parties concerned in this case; and, being so, I hope and am convinced that it will be cordially approved by this court, and that we may enter without debate upon the order prescribed.

"The judicial committee respectfully recommends the follow-

ing order in the determination of the appeal which has been entertained by the General Assembly.

"*First.* Inasmuch as the reading of the record in the case has been by consent of the parties omitted, except such particulars thereof as they may deem necessary in presenting their respective arguments, the parties shall at once be heard, the appellants opening and closing the case, four and one-half hours being allotted to the appellants and seven hours to the appellee.

"*Second.* The members of the judicatory appealed from, namely, the Presbytery of New York, shall then be heard, two hours being allowed for this purpose, and ten minutes being granted to each speaker, it being understood, however, that any member shall have the privilege of yielding his time to another member.

"*Third.* Members of the General Assembly shall then be heard for two hours, speeches being limited to ten minutes, according to the standing rule.

"*Fourth.* Thereafter the vote shall be taken upon each specification of error alleged, the form of the question being: Shall the specification of error be sustained?

"Dr. BAKER: Let me say—I say it for the sake of the court, not for the sake of the parties who, of course, perfectly understand it—that it may be perfectly understood at the outset, I desire to say to the court that the appellants will introduce in their opening all the matter which they propose in arguing the case. No new matter whatsoever will be introduced in the closing argument. It is proper that the court should understand this. As I say the parties understand it themselves perfectly."

Against this decision the appellants objected as follows:

"Col. MCCOOK: Moderator, Fathers, and Brethren: Upon the suggestion of the judicial committee, and with the assent of the parties, it has been arranged that the appellant shall present in their opening argument their entire case, with citation of authorities, and so much of the record as they rely upon.

"The appellant gladly acts upon this suggestion of the judicial committee, as it is likely, in this case, to save the time of the Assembly. This procedure is, however, contrary to that which has, so far as I can learn, always been followed in ecclesiastical

courts, where the appellant has been permitted to dispose of his time and present his case, opening and closing his argument in the manner which commended itself to his best judgment within the limit of time fixed by the court, and especially has this been done under our Book of Discipline. wherein section 99 provides in sub-section 2 that 'the parties shall be heard, the appellant opening and closing.'

"In assenting to this suggestion of the judicial committee, the appellant. to prevent the establishment of a precedent which might work to the disadvantage of parties in other cases of appeal, calls attention to the matter, and now publicly, so that the facts may appear upon the stenographic record of the judicial proceedings, showing its exceptional character, and so that a stipulation, as to order of proceedings, in a single case, shall not be quoted or establish a precedent contrary to the direct, affirmative, constitutional right of appellants, under section 99 of the Book of Discipline, to open and close the argument and as they may think best."

This shows that the General Assembly ruled that the case should be presented in the Assembly in the same way in which the defendant urged that it ought to have been presented in this Presbytery.]

This is the history of this affair.

Before the defendant began his defence he said to the Moderator that he would like to ask of the Prosecuting Committee whether they have closed their argument. To this Mr. McCook replied: "We have except in answer to yours." Then Dr. Briggs said:

"I have a reason for asking that question, Mr. Moderator and Brethren. We notice that there are several members of the Committee who have not yet spoken—especially Dr. Lampe, who is the Biblical scholar of the Committee. He has not yet spoken on the question of the charges. If he has anything further to say I think it should be said now, in order that I may have an opportunity to reply to it. I do not want them to go over this matter a second time, and after I have made my defence. I wish to make my defence against all the Prosecuting Committee have

to say; and, if Dr. Lampe has anything prepared, as I suspect he has, it is his duty to present it to the Presbytery now. He has no right to present anything after I have spoken that he has prepared beforehand in support of the charges. He has only the right to present afterwards a response to my defence; and I now give notice that Dr. Lampe and the Prosecuting Committee will be held strictly to that. He has no right to traverse the whole case again and introduce new matter against me. If he has anything of that kind to present he should submit it now. I have a reason for this, Mr. Moderator and Brethren, because I suspect that the policy of this Committee is now exactly the same as that which they pursued in Portland, at the General Assembly, last May. Oh, they had very, very little to say; they would not occupy much time; they would take any time that the General Assembly saw fit to give them. They did not take very much time at the beginning, to be sure, but after I had finished, then they came in with new material, which I had no opportunity whatever to respond to. Now, I call upon the Committee if they have anything more to say, to say it now, or forever after hold their peace.

. . . . . .

"Mr. McCook: I hoped that I would not have to say another word on this floor, and I should not have done so were it not for the fact that Prof. Briggs has raised a question, which of course there is no objection to his raising, and there is no possible objection to answering it at this time, although it might better have been raised in the ordinary course of procedure.

"The Prosecuting Committee do not know at this time of anything else that we wish to present in the opening of this argument. Under the provision of the Book of Discipline the Prosecuting Committee are charged with the responsibility, which is a great disadvantage, of opening the case; then the accused is to be heard, and the Prosecuting Committee are entitled to close the case. And, if any attempt is made by the Prosecuting Committee to do anything which the Book does not permit and which is not right, I feel that the judicatory would be safe in expecting an objection to be raised to it by Prof. Briggs, and it would be fairly passed upon at the time when such a question is raised. We do not know at this time of anything additional that we wish to present in advance in opening the matter, or we

would have presented it. What will be developed by Prof. Briggs' argument—as we are also in the unfortunate position of not being mind readers—we cannot anticipate; but whatever it becomes our duty to answer to, growing out of his argument, I feel assured that the house may depend upon our making the best possible answer in our power.

"The MODERATOR: I think the matter is understood.

"Dr. FIELD: Then do we understand that the reply of the Prosecuting Committee will be strictly confined to the line of defence?

"Mr. MCCOOK: It will be confined strictly to the discussion before the house. That is all the restriction that will be made upon us.

"The MODERATOR: The Prosecuting Committee, I believe, have a right to be heard after the defence.

"Dr. BROWN: The statement has just been made by the spokesman of the Prosecuting Committee that the Book of Discipline provides that the prosecution shall begin, and shall be followed by the defendant, and then that the prosecution have a right to close the case. I wish to ask the Committee to point out the section of the Book which contains that provision. I am not aware that there is any such provision.

"The MODERATOR: That is an order which is usually followed.

"Dr. BROWN: I ask that the section in the Book which provides that procedure be pointed out.

"A MEMBER: They cannot do it. There is no such section in the Book.

"The MODERATOR: I think there is nothing in the Book which bears upon that, but this is the order that is generally pursued.

"Dr. BROWN: Will you, Mr. Moderator, then call attention to the fact that there is no provision in the Book which points out the procedure stated by the gentleman who represents the Prosecuting Committee?

"The MODERATOR: That will be understood, I suppose. The question now is upon taking recess.

"Dr. BRIGGS: Just one word, Mr. Moderator. I wanted to call the attention of the house to the situation in order to guard my rights in the premises. I simply desire to state now that if

any injustice is done in the opening up of a new line of argument, that at the proper time I will throw myself upon the justice of this body, relying upon their sense of what is right and just to give me a fair opportunity to reply.

"The MODERATOR: I think the house will do that without doubt." (Stenographical Report, pp. 754–759.)

After completing his argument Dr. Briggs said:

"Before the prosecution proceeds I wish to have some rules adopted by the house. It is very evident from the Book of Discipline that they have no right to present any further argument. I may say that I would not myself make this objection were it not necessary as a party. The only provision of the Book of Discipline on this subject is, 'And then the parties themselves shall be heard.' The prosecution have no right of rebuttal, according to the Book. I make that point, Mr. Moderator, and I shall ask a ruling upon it—that the prosecution have no right of rebuttal, according to the Book. I am perfectly willing to make no objection to their speaking in rebuttal for a reasonable time, provided they ask that privilege of the house, and the house grants it. I am not objecting to the prosecution having a right of rebuttal, if the house gives it to them; but I do object to their assuming that they have a right according to the Book. The prosecution, as you will remember, have insisted on the letter of the law from the beginning. When I have in the course of the argument called your attention to precedents of our courts, they have said, 'Oh, we have a new Book of Discipline; we must stick closely to the new Book.' Now they are in exactly the fix that they have put me in all the way through. They have asked the pound of flesh, and up to this time you have given it to them. The question now is, whether they shall have the blood also. Now, Mr. Moderator, I ask your ruling as to whether they have that right. If the moderator decides they have the right, I shall appeal to the house. Then if the house decides in my favor I shall not object to a motion that they have a certain time given them. But I shall ask, to save time, that there shall be a ruling to this effect: That the prosecution be required to limit themselves strictly to rebuttal; that they shall not be allowed to traverse the whole case and bring in a new argument against me, and force me to prepare a reply at this late time

when my strength is well-nigh exhausted and when the patience of this house is well-nigh exhausted. I called upon them, you remember, at the conclusion of their argument, to know if they had anything more to say, and, if so, to say it; so that I might know all there was against me, and might be able to reply to it. And I very much believe, from their procedure in the higher court last May, and from certain other things that they have claimed upon this floor, that they will claim the right to do exactly what they please. That is the right they have claimed all the time, and it is a right which I, as a party, cannot concede at this time. There is one other point, Mr. Moderator, and that is that they shall be distinctly prohibited from using in this rebuttal any material that they have prepared prior to the delivery of my argument. I apprehend that a very large portion of the argument of Dr. Lampe has been prepared for months and months before I appeared in my defence. I claim the justice of this house. I ask no indulgence and no mercy from any one. I ask the justice of this house, that they shall be prohibited from bringing in here at this stage of the argument anything not prepared in answer to my argument here, thus forcing you to go into Christmas week and hold sessions of this court, when we are all exhausted, and when some members of the court must retire and lose their vote in order to save their health or their lives. I claim that it is not just for them to bring in at this stage a long argument which was prepared months and months ago. If, with these restrictions and this understanding, they can be allowed to speak for a limited time, I shall not object; but unless these restrictions are made, I object. I ask you, Mr. Moderator, to please rule on my first point.

"Mr. McCook: Dr. Briggs is quite right in saying that the Book of Discipline provides no procedure upon this particular point. It is the universal custom, so far as I can learn, in every court—ecclesiastical, civil, or criminal—that the person bringing the charge, or the prosecution—such as the prosecuting committee in this case—should open their case; the defence shall then be heard, and the prosecution have the right of reply. That procedure, I believe, is universal. It is not in terms expressed in our Book of Discipline. So far as the presentation of this case is concerned on the part of the prosecution, we have opened it, and we have presented our evidence. We have

no desire to suggest any new evidence. But we do claim, as a matter of justice and of fairness and of right, that now, when the defendant has been heard in his defence—and, of course, we could not anticipate what he would say to this court, and courts generally do not expect the prosecution to anticipate, but give them the right to hear the argument and to present their argument in reply—that we have a right to present our reply. As I have said several times, I assume that this court will confine our closing argument to the presentation of our view in answer to what the defendant has presented, and only to such of his evidence as may have been touched on for the first time. In other words, we wish the right—we think it is our right, and we feel very sure this Presbytery will grant us the right—to answer fully and properly, and nothing else, the arguments which have been presented here by the accused. That we claim, and we think it is in the interest of fairness and of the time of this body and of the parties, and of all concerned, that for the saving of an hour or two, or a few hours, the prosecuting committee should not at this time be deprived of their right to make their answer. This is the only time we will ever have, I hope, the opportunity of presenting an answer to Dr. Briggs' argument. If we do not make that answer here and now, we will never have the opportunity. In fairness and justice and right, we claim that we should be heard, and we do not believe that it is to the interest of the prosecution or in the interest of the time of the court or of the defendant that at this time the discussion should be cut off unduly. We have not interrupted him. I think the house will bear me out in that statement. I have been very careful never to interject a word when Dr. Briggs was speaking unless it was absolutely necessary. We have heard him fully, and now common justice and the rights of the Church which we claim to represent, demand that we should be heard with the same consideration, with the same unlimited time, if necessary—although we are considering the time and will keep ourselves within all proper limits, but we think we have that right. We do not ask it as a favor. It is a question of right in the trial of such a cause. Of course we submit everything to the ruling of the house, subject to proper exception; but we do think it is our right, and we think it is in the interest of all the parties that we should be heard, and heard fully.

"Dr. FIELD: Mr. Moderator, you have already decided the question, and Mr. McCook agrees entirely with you that the prosecution have no right whatever under the Book, and Dr. Briggs is ready to grant it as a privilege. Now, why all this discussion?

"The MODERATOR: The Moderator is impelled to decide that the question of order is not well taken, and for these reasons:

"*First:* That the usage in such cases is against the point which is raised.

"*Second:* That usage is based upon the law of the church governing complaints and appeals, which distinctly gives us this order of the opening and the closing being on the part of those who present their case—the greater including the less.

"*Third:* That the parties cannot have been said to have been heard until the prosecution has had a full opportunity to present its whole case. It has only presented a part of that case so far. It has taken a very small portion of time compared with that accorded to the defendant. You have heard the defendant patiently and fully, as you should have done; and now, in the view of the Moderator, it is only fair, it is only in accordance with our usage and with the principle of our Book, that the prosecution should be heard fully, but not presenting new matter.

"Dr. BRIGGS: Mr. Moderator, I shall have to appeal from your decision—not, as I said before, that I wish to prevent the prosecution——

"The MODERATOR (interposing): Dr. Briggs, you have already been heard.

"Dr. BRIGGS: I wish to state the grounds of my appeal.

"The MODERATOR: If you wish to appeal, your appeal will be put to the House without debate.

"Dr. BRIGGS: I have a right to state the grounds, haven't I?

"The MODERATOR: There can be no debate. Do you appeal from the decision?

"Dr. BRIGGS: I do appeal from the decision.

. . . . . .

"The MODERATOR: I will put the question in this way, so there can be no misunderstanding about it. Those in favor of sustaining the decision of the Moderator, will say aye—those opposed to the decision of the Moderator——*Sustained.*'

Dr. Lampe then proceeded to make the chief argument for the prosecution, covering the whole ground of the case and under the guise of a rebuttal introducing a large amount of new matter. To this new matter the defendant made several exceptions as follows:

[See *The Case against Prof. Briggs, Part II.*, pp. 143–153, where these exceptions are given.]

The Moderator also called attention to the fact that Dr. Lampe was exceeding the limits.

"It is very difficult for the Moderator to bear in mind all the evidence that has been submitted, but I am a little in doubt whether these authorities were mentioned in your evidence, Dr. Lampe.

"Dr. LAMPE: I am speaking to this point, that the Church was——

"The MODERATOR: I think you are giving ground for an exception.

"Mr. MCCOOK: Dr. Lampe must of course answer the arguments presented by Dr. Briggs on the question under discussion. He cited a great many authorities upon those subjects, and in illustration of the position of the Church Dr. Lampe follows that line. If he trenches in the slightest degree on what is right, an exception should be made, as has been made by Dr. Briggs, and it would be quite proper; but Dr. Lampe must have liberty of illustration in answer to the argument that was taken on the other side.

"Dr. VAN DYKE: Mr. Moderator: I think your exception is certainly wise and just; for not only are there new evidences, but they have not the slightest thing in the world to do with inerrancy. Dr. Lampe is discussing the question of inspiration and religious infallibility, which has never been called in question.

"Dr. BRIGGS: I am not going to interrupt Dr. Lampe in the slightest degree, nor would I have said a word if the Moderator had not spoken, preferring to reserve the right of exception until the close of his argument, as I did to-day; but you will remember that I was compelled by the ruling of the house at the beginning, against my own judgment, to put in your hands all the evidence that I was going to use and I did it. Every citation

that I made I put into the hands of the other side, that they might verify it and use it, and they have had all the advantage of that. Now you observe that Dr. Lampe is bringing in a large amount of evidence, of which I had no notification then, and which I have had no opportunity to consider, and which you see it is probable I will not be able to consider at all.

"The MODERATOR: An exception will be entered if you desire it.

"Dr. BRIGGS: Yes, sir; I desire an exception." (Stenographical Report, p. 1215.)

After the conclusion of the argument of Dr. Lampe, Dr. Van Dyke said:

"I desire to offer a motion, Mr. Moderator, and without remark, as follows:

"*Resolved*, That in view of the fact that the Moderator has ruled that the Prosecuting Committee in closing their argument should not introduce new evidence or traverse new ground and that they have done so, an opportunity should be granted to the defendant to reply, if he desires, and to close the case." . . . .

Dr. Alexander said:

"Mr. Moderator: When Dr. Briggs intimated a suspicion that the Prosecuting Committee might be holding back deliberately with testimony or evidence in order to crush him with it after the opportunity for response had gone by, I resented that suspicion, and if it had been in order I should have risen in my place and asked him to withdraw those words, because it seemed to me an unworthy suspicion. Now that the suspicion seems to be justified by the event, I am at a loss what to say. I am puzzled and distressed. The members of this Prosecuting Committee are my personal friends; I cannot believe that there is one of them that would consciously do an injustice—I won't believe it. But I cannot shrink from the fact that a wrong has been done in some way; and the more I think of it, and the more I think of the defendant, from whom I differ so widely, worn out and weak and suffering from this terrific strain, required now to meet this fresh assault—why, the more every drop of Anglo-Saxon blood in me protests against it. We cannot remedy the wrong. All that we

can do is to give the defendant, if he desires it (I hope he will not desire it), an opportunity to meet this fresh evidence and this fresh argument; giving him reasonable time to prepare his defence, and, if need be, giving the prosecution the last word; I should not object to that at all. But having spent so much time, we cannot afford to seem even to do an injustice to any one.

The MODERATOR: "The Moderator understands that, perhaps without any intention to bring in new evidence, quotations were made in the way of illustration from certain authors, although strictly speaking their names should have been submitted before; and Dr. Briggs has met that point already by taking two exceptions, and of course he reserves his rights in view of the carrying up of the case to a higher court, and it might all be conserved there. But if Dr. Briggs chooses to make answer to any of these points that he considers to be new evidence, or that are actually new evidence, he has a right to do so. (Stenographical Report, pp 1343–1344.)

"Dr. VAN DYKE: It is quite evident that new matter has been introduced. (Cries of No! No!) Those who do not yet see it will see it when the court comes to vote upon it. So it is simply a matter of fairness and justice that we should allow the defendant, if he wishes it, to reply. It would be an unheard-of thing in any civil court that a prosecution should be allowed to traverse new ground and that the accused should not be allowed to be heard or to offer evidence in rebuttal. It is a thing to cause the blood of an Anglo-Saxon to boil within him, every drop of it, too. Moreover, Mr. Moderator, it is not simply that new matter has been introduced, but that statements which have been made by the defendant again and again upon this floor in respect to doctrines which he rejects, have been again attributed to him. And I maintain that . . . . It is simply a matter of fairness and candor that we should make this offer to Dr. Briggs, whether he will accept it or not, for the sake of the honor of this house, and in the way of decency." (pp. 1351–2.)

After considerable debate, Dr. Briggs, by the consent of the prosecution and by the unanimous vote of the house, was heard. He said:

"The Biblical scholar (and may I also say, the historian?) of the prosecution has spoken. He has done precisely what the defendant, prior to the delivery of the argument for the defence, intimated to the Presbytery that he would do. He has disregarded the evidence as set forth in the Amended Charges and submitted to the Presbytery, and has introduced a large amount of new evidence. He has ignored the case as presented by the real chairman of the prosecution, as well as by the ostensible chairman, in their opening arguments. He has not considered the argument for the defence as worthy of rebuttal. He has introduced such a large amount of new matter as to make an entirely new case. The ostensible chairman of the prosecution promised that the prosecution would introduce no new matter. But this promise, like many others from that same source, was a disguise of its fulfilment. Dr. Lampe has done precisely what was promised and agreed he should not do. He has trampled under foot the rights of the defendant, the precedents which govern all trials, and the rulings of this court. The injustice and the wrong have been done. The court has permitted them. The argument goes up on the Stenographical Report to the higher courts to the injury of the defence. What shall the defendant do under the circumstances? Shall he claim the right to make a new argument against this new case? He might justly do so. And yet the time already given to this trial has been so extended, the strength and patience of the court have been so strained, the health of some of the dearest friends of the defendant has become so imperilled, and his own vigor is so much impaired, that he does not hesitate to say that he would rather be convicted than undertake a new argument at this stage. It has come to this pass, that members of the court are saying, If such things can be done in the name of the Presbyterian Church in the United States of America, it costs more to be a Presbyterian than it is worth.

"It is necessary, however, that I should say a few words."

He then went on to show in a few examples the great injustice that had been done. (See *The Defence*, pp. 184–185, 189–192.) The action of the Presbytery was as follows (Stenographic Report, pp. 1377–1378):

"Dr. GEORGE ALEXANDER: If it be in order I move that the Committee of Prosecution have the opportunity to close the case, if they desire to do so.

"The MODERATOR: I think the case should close here. The Moderator decides that the case is now closed.

"Dr. C. L. THOMPSON: May we now take up from the table the resolutions that were offered by Dr. Wylie as to the order of procedure?

"Mr. MCCOOK: I do not wish to say a word further than simply to record a formal exception to the ruling of the Moderator as to the matter being closed without the committee being further heard.

"Dr. SUTTON: Take an appeal to the house.

"The MODERATOR: What is Mr. McCook's idea in regard to it?

"Mr. MCCOOK: I cannot remove your decision. It was suggested that we be heard, and you decided that we should not be heard. I simply wish to enter an exception to that decision and ask that it be noted upon the records.

"The MODERATOR: I will recall that decision for a moment in order to ask a question,—on what ground the committee should desire now to be heard further.

"Mr. MCCOOK: As I stated before, simply as a matter of order. We do not wish to say one word in reply to what Dr. Briggs has said; but, as I said—not just now, but when we had the floor before recess—as a matter of order I thought it was our right to reply; but as the Moderator has decided that we should not have that right, I simply wish to take an exception.

"The MODERATOR: The Moderator is very clearly of the view already embodied in his ruling, that the prosecuting committee had the right to open and to close—to be fully heard; and that they should close, provided no new matter should be introduced. New matter having been introduced in the view of the Moderator, Dr. Briggs has now made reply. The Moderator's view is, and his decision is, that the case is now closed.

"Dr. BOOTH: You allow the exception, of course?

"The MODERATOR: Certainly."

Judge, ye Ministers and Elders of the Court, whether the prosecution suffered a grievance in this matter or

whether they did not do the defendant an irreparable wrong and give the Presbytery of New York sufficient reason for censuring them for a breach of faith and a violation of the rulings of the court.

(3). *Prejudice.*

It is alleged that there was "manifestation of prejudice in the conduct of the case by Dr. Geo. Alexander, Rev. Antonio Arrighi, Dr. Henry M. Field, Dr. Thomas S. Hastings, and Dr. Henry J. Van Dyke." (IV. 2). Also,

"That Rev. Francis Brown, D.D., Rev. Henry M. Field, D.D., Rev. Thomas S. Hastings, D.D., Rev. J. Hall McIlvaine, D.D., and Rev. Henry Van Dyke, D.D., sat and deliberated in the trial of this case and voted to acquit the said accused, upon each and every specification and charge, after manifestations of prejudice in the conduct of the case, on the part of the said members was charged in the appeal to and sustained by the General Assembly of 1892." (IV. 5.)

Also

"In this, that sundry Directors, Officers and Professors of Union Theological Seminary, to wit: Rev. Francis Brown, D.D., Rev. Edward L. Clark, D.D., Rev. Charles R. Gillett, D.D., Rev. Thomas S. Hastings, D.D., Rev. J. Hall McIlvaine, D.D., Rev. Philip Schaff, D.D., Rev. W. M. Smith, D.D., Rev. Marvin R. Vincent, D.D., and William A. Wheelock, Esq., sat and deliberated in the said trial and voted to acquit the said accused upon each and every specification and charge, said Directors, Officers and Professors having previously approved and published the said Inaugural Address, as appears in the first edition which bears the imprint: 'Printed for The Union Theological Seminary, New York, 1891,' 'Copyright, 1891, by The Union Theological Seminary,' and as also appears in the second edition of said Inaugural Address, which was also 'Copyright, 1891, by The Union Theological Seminary,' which said Inaugural Address contained the alleged erroneous doctrines for the holding and publishing of which doctrines the accused was then on trial." (IV. 6.)

Dr. George Alexander is in your presence. He is able to speak for himself. He needs no defence from me.

The Rev. Antonio Arrighi, the faithful missionary to the Italian population of New York, is not present in the Assembly, but he has spoken for himself in a recent letter to the *Evangelist*, as follows:

"As an appeal is to be made to the General Assembly in the case of Dr. Briggs, and one of the arguments stated in that appeal is that some of the members of the court that tried and acquitted Dr. Briggs were moved so to do because *prejudiced*, and my name is used in that argument, I wish to say: That I do not know from what motives others were led to vote for acquittal. but as far as I am myself concerned, I assert that I voted as I did because, after having heard the arguments on both sides, I was fully persuaded that the Prosecuting Committee had not proven nor sustained any of the charges or specifications, and I voted as I did because I had made my vote a subject of earnest prayer, and I believe that I was guided by the Spirit to vote as I did. I may state here that my vote was not in the least influenced by any other cause, but only by an intelligent sense of justice. During or before the trial of Dr. Briggs not a word was said to me by any of the friends of Dr. Briggs to influence me to be favorable to him. Not such, however, was the case with the supporters of the prosecution; one of the strongest friends of the Committee of Prosecution will recall to mind that he called me to his office and tried to have me look upon the case in the same light as he did. And another equally strong friend of the prosecution called at my church and begged hard to induce me to stay away from the court so that I might lose the right to vote. His reason for this request was that he himself was obliged to be away. I do not know what right the Committee of Prosecution had thus to use my name as a prejudiced person; however, I will say, that no man, no committee, however able it may be, has any right to pass judgment upon the motive for action of any man; and in this they show how weak their case must be. Besides the reasons already stated, I was moved to vote as I did because, above all, I love the Church to

which I belong, and earnestly desire her peace and prosperity. It seems to me that the devil has been laughing at us long enough, and the world has been saying, 'See how those brethren quarrel with each other.' I therefore hope that the General Assembly will put a stop to all such sneers by stopping any further proceeding in this unfortunate affair. Thus it will compel the world to say, 'See how these brethren love each other, and how peacefully they work for the upbuilding the cause of Christ.'

"Yours truly, ANTONIO ARRIGHI,

"Pastor of the Italian Evangelical Church.

"155 Worth Street, New York."

The following distinguished divines are accused by these prosecutors of prejudice:

Dr. Henry M. Field, the editor of the *Evangelist;* Dr. Thomas S. Hastings, the President of Union Theological Seminary; Dr. Henry J. Van Dyke, pastor of the Brick Church. If such men as these can be charged with prejudice on the flimsy grounds of the words cited out of their historical occasions, where will you be able to find unprejudiced judges?

It is alleged that the General Assembly at Portland sustained a specification of prejudice against Drs. Brown, Field, Hastings, McIlvaine, and Van Dyke. It is unfortunately true that the Assembly at Portland did all that the prosecution asked them to do and put this imputation upon these five distinguished names. But granted that these five were prejudiced in 1891, does it follow that they were prejudiced in 1892? How can you prove that they did not accept the rebuke of the Assembly with meekness and sit in the trial in a judicial frame of mind? There is no law of the Church which excludes them from their seat as judges in the case.

It is alleged that Professors and Directors of the Union Theological Seminary, nine in number, having approved

and published the Inaugural Address, ought not to have sat as judges in the case. But this is a misstatement of the fact. It is not true that the publication of the Inaugural on the authority of the Directors implies approval of the doctrines taught in the Inaugural on the part of any. of the nine professors and directors. I would not presume to say that these professors and directors approved of any of the views stated in the Inaugural. They approved it as suitable for publication—and that is all. It does not imply that they could not sit as judges in the case and decide according to the evidence. There is no law by which the friends and associates of the accused should be excluded from the court of the Presbytery in his trial.

If the court of the Presbytery had been of the nature of a jury in a criminal court, the challenges would not have been all on the one side. The defendant might justly have challenged those members of the court who went to Detroit and voted to veto his transfer to the Edward Robinson Chair of Biblical Theology. He might justly have challenged those who took sides with the prosecution against their Presbytery before the last General Assembly. He might justly have challenged those who on the floor of the Presbytery and elsewhere had shown personal animosity to the accused and extreme prejudice against his opinions. I shall not mention names.

Were the professors of Union Seminary prejudiced and the professors of Princeton Seminary unprejudiced? Was the editor of the *Evangelist* prejudiced and the editor of the *Observer* unprejudiced? Were those who refused to recognize the rights of the General Assembly to veto the transfer prejudiced and those who strove with all their might to carry the veto unprejudiced? There can be but one answer to these questions by unprejudiced parties.

The law of the Church does not permit any such challenge of the members of the court. It is assumed that every Presbyter is to decide in the fear of God, in the presence of Christ, and under the guidance of the Holy Spirit, and that the judges will judge righteous judgment. The reality sadly departs from the ideal. But it is not equitable to consider any pretended departures on the one side, without also considering alleged departures on the other. As was shown in the argument against Entertaining the Appeal, the defendant has been compelled to argue in every case before courts which were unfriendly to him, and which have again and again acted against his interests and done him grave injustice and wrong. Doubtless the civil courts are in advance of the ecclesiastical courts in the protection of parties against prejudice and bias. The time will surely come when no man will be put in jeopardy of his ecclesiastical life in a court which is unfriendly to him and where the influence of parties may determine the verdict in defiance of justice and right. The time will surely come when the defendant may by a challenge rule all unfriendly persons and hostile partisans from the court which tries him. The time will surely come when a man cannot be deprived of his ecclesiastical life by a mere majority of such members as now constitute the courts of the Church. But as things now are, the court of the Presbytery of New York will compare quite favorably with any other courts which have thus far had jurisdiction of the case. And this General Assembly will have to take great pains to purge itself of any suspicion of bias, prejudice, or partisanship ere it can safely undertake to impute such things to the members of the lower court, and especially to such honorable names as those mentioned in the specifications of this Appeal.

But granting for the sake of argument, that there has been prejudice on the part of the thirteen names specified by the Committee, there would still have been acquittal on three of the Charges and there would have been conviction only by a majority of one on the sixth Charge, a majority of two on the first Charge, and of seven on the third Charge. But the General Assembly could not sustain an objection of prejudice against the prosecution without giving the defendant also an opportunity to show prejudice against him. If the three voters were ruled out who voted against Dr. Briggs in Detroit, he would still have been acquitted on all but the third Charge. And it would be quite easy for him to show that many more than thirteen members of the court had so committed themselves against him by the public expression of their opinions, that they had an invincible prejudice in the case. If you allow the prejudice of the members of the court to be considered, it would be quite easy to show that Dr. Briggs would have been acquitted by much greater majorities than any that he received. And if the question of prejudice is to be considered in connection with the court of the Presbytery, it must also be considered in the court of the Assembly, and it will first be necessary to purge this court by challenges of the parties before you can give a righteous verdict. If you will not allow a challenge in this court you cannot consistently allow it in the Presbytery.

No valid grounds for sustaining the Appeal have been presented under this head. The only thing it is lawful for you to do, if you have a right to take jurisdiction of the case, is to review the evidence and the arguments of parties and then determine whether the verdict was in accordance with the evidence or not.

IV.—The Final Action of the Presbytery.

There are ten specifications of error under three grounds of appeal relating to the final action of the Presbytery. It has been shown in the argument against Entertaining the Appeal that this final action was not only a verdict of acquittal with its reasons—which alone can be regarded as a final judgment; but also action of the Presbytery in the exercise of its episcopal and legislative functions against which an appeal is unlawful. We shall find that these ten specifications of error chiefly relate to such things and that they are irrelevant to the final judgment and therefore present no valid grounds of appeal.

[The most of these were referred by the appellee to the members of the Presbytery of New York for review. But inasmuch as the General Assembly sustained all these specifications, I shall print the argument against the specifications which I was prevailed upon by the Judicial Committee to omit in order to save the time of the Assembly.]

(1). *Attempting to relieve the Committee of further responsibility in connection with the case.*

Manifestation of prejudice in the conduct of the case is charged:

"In this, that said Presbytery in said final judgment, by attempting to relieve the said Prosecuting Committee from further responsibility in connection with this case appears to hinder and prevent the attainment of the ends of discipline, apparently aiming to now terminate the said case, and thus secure the same result that the said Presbytery attempted to reach on November 4th, A.D. 1891, by voting to dismiss the said case." (IV. 3.)

But this action of the Presbytery was not taken dur-

ing the trial, but after the trial had been completed and the vote had been taken and the verdict of acquittal declared. Therefore it was not a manifestation of prejudice in the conduct of the case. Whether the Presbytery had a right to relieve the committee of its responsible task or not depends upon the decision of the question of the original party by the Synod of New York. If the Synod should decide that the committee is not independent of Presbytery, then the Presbytery ought to have dismissed them. If the Synod should decide that they are independent of the Presbytery, then the Presbytery could not have relieved them of their responsibility in the case. Whichever way the Synod may decide does not affect the rightfulness of the verdict in the final judgment; but only the rightfulness of an appeal to the superior courts. Even if the Presbytery committed an error here, that is no ground for representing prejudice in the trial of the case, and therefore it gives no ground for a reversal of the verdict. This specification of error is therefore irrelevant to the Appeal.

(2). *Fraternal Discussion.*

It is alleged that there was manifestation of prejudice in the conduct of the case:

"In this, that the said Presbytery, in said final judgment, expresses 'an earnest conviction that the grave issues involved in this case will be more wisely and justly determined by calm investigation and fraternal discussion than by judicial arraignment and process,' notwithstanding the fact that the General Assembly directed the case to be tried on the merits thereof and thereby expressed a no less earnest conviction that the grave issues involved should be determined by judicial arraignment and process." (IV. 4.)

This conviction of the Presbytery is an expression of

the opinion of the Presbytery. It may be a right opinion or it may be a wrong opinion. This opinion was not expressed during the trial, but subsequent to the trial. There is no evidence that this opinion influenced the verdict. It is more reasonable to suppose that the verdict influenced the opinion. It is not for the appellee to defend that opinion. He is not responsible for it. Even if it be a wrong opinion, its error gives no ground for overturning the verdict. The commissioners of the Presbytery of New York should defend this opinion. It is sufficient for the appellee to defend the final judgment, the verdict of acquittal. This specification should not be sustained, because it is irrelevant to the final judgment.

(3). *Approval of the views of the Inaugural.*

It is alleged that there was "mistake or injustice in the decision":

"In this, that the said final judgment of the said Presbytery, which disclaims to be an expression of the approval of the critical or theological views embodied in the said Inaugural Address, is, in fact, an approval of said critical or theological views and will have the effect of encouraging the dissemination of said views and will further increase the present disquietude in the said Presbyterian Church," etc., etc. (V. 3, 9, 10, 11.)

It is certainly not in the interest of the appellee to defend the Presbytery of New York against these allegations of error. These statements in the final action of the Presbytery do an injury to the defendant if to anybody. For he has a right to object to any questioning of the rightfulness of his views by the body which acquitted him. The appellee agrees with the appellants that the Presbytery did what they ought not to have done when they made this deliverance. Is the appellee

to suffer for it? He suffers from it in the indirect disapproval of his views which may be inferred from it. Is it equitable that this error of the Presbytery should cost him the risk of a reversal of the acquittal? Look at the unfair situation in which the appellee is placed. He admits that in this the Presbytery of New York committed an error. If it is relevant to the verdict, then you should sustain it, and if you sustain it you must sustain the Appeal in part. If you sustain it in part you may censure the Presbytery, but you have no ground for disturbing their verdict—for the error was committed against the defendant, not against the prosecution. This error is not relevant to the final judgment. It was committed by the Presbytery in the exercise of its episcopal functions, not in the exercise of its judicial functions. Let the commissioners of the Presbytery defend this action, the appellee cannot.

But this much the court should consider, that the prosecution endeavored to force the issue upon the Presbytery, that they must either approve the views of the Inaugural, or condemn them by a verdict of guilty of heresy.

Mr. McCook said in his argument:

"The question meets each one of us, are these doctrines of Professor Briggs contradictory to the Holy Scriptures and to the Standards of our Church? In approving of his teaching, and you do approve of it, if you vote for an acquittal, you who have this view will go back to your respective congregations with the acknowledgment that your view of the Word of God is not the view of the prophets and apostles, and of Jesus Christ himself. You are virtually to say to them and to the world that the Bible is not any longer regarded by you as the only infallible rule of faith and practice, but that the Reason and the Church are also fountains of divine authority; that the words of the Bible do not convey the inspired truth; that it is a matter of tempera-

ment and environment which way of access to God men may pursue; that the whole race of man is redeemed, will be justified, sanctified, glorified, whether they be elected or not, whether they be heathen or Christian. You will tell them that a man who teaches all these doctrines should still remain in that ministry that has been honored by such men as Edwards, and Smith, and the Hodges, and Adams. And you will collect money for missions, although you agree that most men will be saved in the Middle State, even if they die in their sins. You will agree with me that the issue is of vital importance." (pp. 47-48.)

To this the defendant replied in his Preliminary Remarks:

"What members of this court can be misled by the statement that 'you do approve of' the defendant's teaching 'if you vote for an acquittal'? That is not the question before you. The question is, whether the Charges are true or false, whether the defendant has taught the doctrines alleged in the Charges, and whether, if he has, these doctrines conflict with the essential doctrines of the Standards named in the Charges. You may disapprove of his teaching altogether, and yet you can do no other than pronounce him innocent so far as any case that the prosecution has made against him."

To avoid this false issue, Dr. Geo. Alexander offered a resolution on December 28, 1892, that

"The Court deems it proper to declare that a vote by any member of this Court not to sustain the Charges preferred against Rev. Charles A. Briggs, D.D., does not denote approval of his theological or critical views, or of the manner in which they have been advanced, but only a judgment that the specific charges have not been established."

This resolution was discussed and then laid on the table until after the vote on the Charges and Specifications had been taken. Then it was taken from the table and referred to the committee appointed to prepare the final action of the Presbytery.

If the resolution had been adopted prior to the taking

of the vote, then it might have been urged that the resolution influenced the vote. But in fact the resolution was not adopted before the taking of the vote, or after taking the vote, but was referred to a committee, who substituted for it in their report the following clause: "Without approving of the positions stated in his Inaugural Address."

Therefore it cannot be maintained that the resolution influenced the verdict. It must be shown that the verdict would have been reversed by the Presbytery if this resolution had not been offered, or else you cannot regard this resolution as a sufficient reason to justify you in reversing the verdict. This has not been shown. It cannot be shown.

The Presbytery did wrong, in the estimation of the defendant, in that this resolution and its substitute in the final action of the Presbytery is so framed that it seems to imply a disapproval of the views of the Inaugural. The Presbytery should have so framed its opinion as not to leave it open to this interpretation. The Presbytery was not called upon in the trial to say whether they approved the views of the defendant or disapproved them. The Presbytery was called upon to try them by the constitution and to determine whether these views were contra-confessional, or whether they "struck at the vitals of religion," whether they were heretical. The Presbytery determined that these views were not contra-confessional. It did more; it expressly gave its opinion that they were extra-confessional; "the Presbytery does not find that he transgressed the limits of liberty allowed under our constitution to scholarship and opinion." Having determined that the views were thus within the limits of liberty—that is, were extra-confessional and extra-judicial—it had no authority as a court

to give any judgment whatever upon them, whether of approval or disapproval.

It is probable that the Presbytery meant by the clause to which exception is taken, nothing more than a simple reservation of opinion as to the views stated in the Inaugural Address. If that was its meaning, the Presbytery certainly had the right to express such a reservation. It was within its episcopal jurisdiction so to do. No wrong has been done the prosecution by this reservation of opinion. They failed in convincing the Presbytery that the defendant was guilty. They failed in forcing the Presbytery to disapprove the views of the defendant.

Let me say a single word here, Mr. Moderator and brethren. You are in a very delicate position, as it seems to me, before the Christian world. You will have to take great care lest in condemning the accused you approve the theological views of these theologians who are prosecuting him. For I will undertake to bring out an enormous catalogue of heresies in the arguments which they have presented to these courts. Unless you guard yourselves, in your final decision, against any approval of these arguments, you will put yourselves in a very unfortunate position, to justify your action before the Christian world.

(4). *Effort to Convict the Accused by Inference.*

It is alleged by the prosecution that there was mistake or injustice in the decision of the Presbytery,

"In this, that said final judgment is misleading and unjust, because it evidently but erroneously aims to set forth that there has been an effort to convict the accused by inference or implication." (V. 8.)

But this allegation does not accord with the facts of the case. The Presbytery in its final action states that:

"The Presbytery has kept in mind these established principles of our polity 'that no man can rightly be convicted by inference or implication.'"

This is a statement of a principle of law which governed their own action. It makes no imputation upon the action or the motives of the prosecution. The Presbytery makes no allegation against them as to inferences or implications. But the defendant does make such allegations, and these are sustained by their whole conduct of the case. The prosecution depend absolutely and alone upon false inferences and invalid implications in their arguments. So far did they go in such offensive and unrighteous procedure that in the opinion of the defendant and of many onlookers they ought to have received the censure of the Presbytery. They have earned the censure of the General Assembly and of all honorable men by their persistent efforts to force their inferences and implications upon the defendant and upon the Presbytery.

The attention of the General Assembly is called to two gross examples of such imputations which were exposed to the Presbytery by the defendant:

"I shall not take the time of the judicatory by calling attention to the insinuations and statements of larger errors which pervade the argument of Mr. McCook, but your attention is called to the closing section of that argument, in which an attempt is made to explain all the errors imputed to the defendant by the root error of Naturalism—which it is said 'in the hands of a more logical writer than Professor Briggs would be pushed to far more radical conclusions . . . . and will soon leave you about as much exclusiveness as Christians, in having the oracles of God, as Mahometans or Brahmins have.'" (p. 46.)

"If the prosecution are serious in this statement of the case, they are convicted out of their own mouth of gross neglect of duty. If they have here struck at the root of all the errors of

Dr. Briggs, they certainly ought to have put it in a Charge. If they made a mistake in the formulation of the original Charges, why did they not confess their mistake, abandon the old case, and bring in new Charges under a new case? That would have been honest, that would have been manly, that would have been welcomed by the defendant and all honorable men. But to bring such a serious accusation into an argument to prove other Charges, which have been recognized as sufficient for probation, is to wrong the defendant and to presume upon the patience and indulgence of the court. This new charge is utterly and absolutely false. It was forged in the brain of its author. It was invented in a diseased mind. You have no right as a court to consider it. The laws of evidence in all courts, civil and ecclesiastical, require you to blot out from the argument any and every reference to other imputed errors than those alleged in the Charges. These and these alone the prosecution were entitled to prove." (*The Defence*, pp. x–xi.)

The other example was in the argument of Dr. Lampe.

"(*b*) When Dr. Lampe argues that I teach the errancy of Jesus, he argues on a much more serious matter than any contained in the Charges, and in such a way which shows that he knows but little of the true doctrine of the personality of our adorable Saviour. I am not surprised that a man who can speak of the hours of prayer and religious meditation, as *lonely* hours, should know so little of Jesus Christ. When we are apart from the world and present with Jesus we have companionship which is richer and more glorious than that of all the world beside. My argument was simply this, that Jesus never said that Moses wrote the Pentateuch or that Isaiah wrote all of the book which bears his name; and that He was not obliged to correct all the errors of His contemporaries. This argument the prosecution did not attempt to rebut, they did not refer to it; but, in place of rebuttal, charge me with a more serious error than anything contained in the Charge. How can this court look upon such conduct with any degree of toleration?

"(*c*) Almost the entire argument of Dr. Lampe is directed against the views of rationalistic critics, with the implication

that I am responsible for their opinions. The prosecution had in their hands my printed argument on the authorship of the Pentateuch and the book of Isaiah. They have not paid the slightest attention to anything in my argument. As I stated at the close of my argument on the Pentateuch, I defend the historicity of the Pentateuch no less than the prosecution; and I defend it on better grounds and with far greater hopes of success when I recognize parallel narratives of the same event in the history contained in the Pentateuch. The court should recognize all this irrelevant argument and rule it out of court, and confine themselves to the specific matters contained in Charges IV. and V., and determine whether a man who denies the Mosaic authorship of the Pentateuch and asserts that Isaiah did not write half the book which bears his name, has taken a contra-confessional position and is thereby ruled out from the Presbyterian Church.

"(3) I have taken exception to much the *greater portion of the argument* of Dr. Lampe, as in no sense a rebuttal, but a new case against me. It is impracticable for me to go over all the argument at this time. Let me take one glaring specimen. He puts in my mouth (p. 16) the statement: 'Newman could not find certainty and God in the Bible striving never so hard, but found a place among the faithful through the institutions of the Church. Martineau could not find God in the Bible but did find Him enthroned in his own soul.' This is a misrepresentation. The passages from the Inaugural referred to (pp. 25, 27) say no such thing. They say, 'Martineau could not find divine authority in the Church, or the Bible; but did find God enthroned in his own soul' (p. 27). 'Newman, who could not reach certainty, striving never so hard, through the Bible or the Reason, but who did find divine authority in the institutions of the Church' (p. 25).

"I did not say that Newman and Martineau did not *find God* in the Bible. That statement the prosecution, and they alone, are responsible for. To find God is one thing, to find divine authority in that in which we find God, is another and a different thing. The difficulty with the prosecution is that they seem incapable of making distinctions and seeing differences in the fields of theology which are so unfamiliar to them." (*The Defence*, pp. 190-191.)

The Presbytery simply ignored this conduct of the prosecution. It stated that it was influenced by the principle which is quoted from the decision of the General Assembly "that no man can rightly be convicted of heresy by inference or implication." If that statement is unjust to the committee, it is simply because it calls their attention to a principle which convicts them at the bar of their own consciences as guilty of unrighteousness and wrong. It is true that the Presbytery states that "there are truths and forms with respect to which men of good character may differ," but where is there anything misleading or unjust in that statement? It is an invalid inference that "this seems to deny and make light of the well-established principle of our polity, that there are also truths and forms with respect to which men of good character should not differ." There is no inconsistency in these statements to any clear mind. The Presbytery decided that the views challenged in the Inaugural belonged to the former class. Possibly the Presbytery erred in their classification of the views of the defendant—but it did not err in the distinction it made between the two classes of truths and forms. Therefore this specification of error is invalid. The Presbytery were not misleading and unjust in these statements. The Presbytery made the distinctions which the law of the Church required them to make in connection with a final judgment of Charges for heresy.

(5). *The Final Judgment Vague.*

It is represented by the appellants that there was "mistake or injustice in the decision:

"In this, that the said final judgment is vague and uncertain."

Vagueness is alleged in several particulars.

(*a*) It is true that the Presbytery stated that it gave "due consideration to the defendant's explanation of the language used in his Inaugural Address, accepting his frank and full disclaimer of the interpretation which has been put upon some of its phrases and illustrations." It is alleged that these explanations, phrases, and illustrations should have been specified. There is no ground in law for such a specification. It was not necessary nor was it proper for the Presbytery to specify all those explanations, phrases, and illustrations. To do so would be to review a considerable portion of the argument for the defence. Such a review is unprecedented in final judgments. (*b*) It is alleged that it should have been specified "whether such explanations or disclaimers relate to the portions of the said Inaugural Address upon which the Charges and Specifications are based." But such a specification was uncalled for. It is to be assumed that the court would do its duty and limit its consideration to the Charges and Specifications. The prosecution present no evidence that the court did otherwise.

(*c*) It is alleged that the statement of the Presbytery that the defendant "has not transgressed the limits of liberty allowed under our constitution to scholarship and opinion" is vague and uncertain. This objection is invalid and uncandid, for the Presbytery was called upon to determine six Charges and their Specifications. It gave as its judgment that the opinions of the defendant were not heretical and acquitted him of the charges alleged against him. It determined that the opinions of the defendant so far as they were challenged in these Charges and their Specifications were within the limits of liberty. There is nothing vague or uncertain in that. If there be any vagueness or uncertainty, it is in the Charges and Specifications prepared by the prosecution.

They cannot ask that the Presbytery should make any other lines of discrimination than the lines drawn by the Charges. If their Charges and Specifications were vague, they cannot impute vagueness to the Presbytery, when on finding the Charges unproven, it says that the views charged as heretical have not transgressed the limits of liberty.

(*d*) It is alleged that "the Presbytery confounds unjustifiable controversy with useful and constitutional discipline." But there is no ground for this allegation. There are evidently two classes of opinions, one class heretical which demands useful and constitutional discipline, another class within the limits of liberty allowed under our constitution to scholarship and opinion. It was the duty of the Presbytery to determine in view of the Charges, to which of these classes the challenged opinions of Dr Briggs belonged. The Presbytery may have made a wrong classification of the views of Dr. Briggs—but there is no vagueness in the distinction of the two classes and there is no other vagueness in the classification than such as is found in the Charges themselves for which the prosecution is responsible.

(6). *Sustain in Part.*

It is alleged that there was irregularity in the proceedings of the Presbytery of New York:

"In this, that when the vote was taken on the said Charges and Specifications, the said Presbytery refused to permit any of the members of the said Judicatory to vote, to 'Sustain in part,' contrary to the precedents and practice of the judicial procedure of the Presbyterian Church in the United States of America." (I. 11.)

The Presbytery on motion of Dr. Thompson adopted a rule for taking the vote. This rule was adapted to the

structure of the Charges and Specifications. The Charges were so constructed that they contained several different Charges. The Presbytery, in accordance with the Preliminary Objection of the defendant, directed that these Charges should be itemized in order to save the time required to reconstruct them, in accordance with the suggestion of the defendant. The Charges had no proper Specifications. The Specifications were merely extracts from the Inaugural, nothing more. The vote to sustain in part has to do with the relation of the specifications to the Charges. If a Charge has several specifications, one or more of them may be sustained, and so the Charge may be sustained in part.

The present Appeal is so constructed that votes to sustain in part are possible under each and every ground of appeal. But the Charges were so constructed that a vote to sustain in part was impracticable. It would only have taken time and tended to confusion in the vote. No exception was taken by the prosecution to the decision of the Presbytery to take the vote in the way decided upon. It was seen after careful deliberation that no injustice would be done, and that the method decided upon by the Presbytery would be most equitable.

This will be clear to any one who examines the Charges and Specifications and studies the vote. There was no place for votes to sustain in part. Four of the Charges had each one specification only. There can be no vote to sustain in part where there is but one specification. The other two Charges had two specifications each. Here it was theoretically possible for a vote to sustain in part if the specifications had been so constructed as to raise different issues; but they were not so constructed and therefore such a vote was not practicable. This becomes evident in the debate.

It is clear that the Presbytery took this view of it, for the vote is identical under the two specifications of Charge II. Under Charge I. there was a single voter out of 128 who changed his vote on the second specification. If now any one should say that there was the possibility of a different result under Charges I. and II. and that therefore the usual method should have been followed and a vote to sustain in part permitted, let him consider that if this be so, the irregularity did no injustice in this case; for according to the vote on the specifications there could have been only a single vote to sustain in part, and that one on Charge I. only; and if any injury was done, it was not done to the prosecution, but to the defendant, because the minister who voted to sustain the second specification of Charge I. and not to sustain the first specification, voted to sustain the Charge; so that the only difference in the result would have been that one voter would have voted on the first Charge to sustain in part, instead of to sustain. Certainly the prosecution have no ground for appeal in this matter.

We have gone patiently through all these specifications of objection and grounds of appeal against the verdict of the Presbytery acquitting Dr. Briggs of the six Charges of heresy alleged against him. It seems as if we have been passing through a fog bank. The 34 specifications seemed banked up in formidable array—but we went straight forward—we pushed against them, they yielded to the least touch, they shrank back from the merest breath, they are airy nothings, they have left nothing but an unpleasant and disagreeable sensation which we trust will soon pass away now that we have left them behind.

These appellants have no case. They may be dis-

appointed at their failure to convict the accused. But you cannot legally sustain their Appeal. All its grounds are invalid. The most of them are trivial. Many of them are childish. But if they were all of them valid, what could you say other than this:—the Presbytery ought to have served upon the defendant the two Charges which were thrown out and to have allowed the prosecution to present their evidence to sustain them; the Presbytery ought not to have itemized the Charges, or to have changed them in any way; the Presbytery ought to have required the defendant to take oath as to the genuineness of his own writings, and to have read all his evidence before the court; the Presbytery ought not to have said any of those things in their final judgment against which the prosecution object; they ought to have limited themselves to the verdict with its reasons; they ought to have allowed that unique voter to vote to sustain in part instead of to sustain. In all these respects the Presbytery did wrong and are deserving of censure for these errors, and we do hereby reverse all these actions. Granted that all these actions were erroneous, the verdict will still remain unassailable. The only ground given on which you can change the verdict, is by ruling out the thirteen voters who are alleged by the prosecution to have been influenced by prejudice in favor of the accused. You then have seriously to consider (1) whether it is lawful to condemn these eminent ministers and laymen as guilty of prejudice, without a trial; (2) whether you can entertain charges of prejudice against those who voted in favor of the accused, when you refuse to entertain charges of prejudice against those who voted against him; (3) whether you can rule out prejudiced parties from the lower court, unless you have already ruled them out from the superior court.

Thus the only ground for a reversal sinks by its own weight in the marsh of its own iniquity, and disappears in the mud of its own false pretensions.

V.—The Doctrines of the Appellee.

Now, *Mr. Moderator*, I propose, after having devoted so much time to disproving the case as presented by the appellants, to state to you as frankly as I can, what are those things which I veritably believe and teach. In order to do this I shall use for the most part my Defence and the writings put in evidence in the case.

The Reason.

The first charge against me, stripped of all that I deny as relevant, is that I make the Reason a great fountain of Divine authority. Let me make a statement here, having reference to the argument of Dr. Lampe. It seems to me that Dr. Lampe and most of my critics make the serious mistake of confounding the original source of all authority with the fountain of authority. It seems to me that the prosecution make the Bible the infallible source of authority, instead of recognizing that God is speaking through the Bible, as I do; and therefore they do not understand my position when I say that the Reason and the Church are fountains of divine authority.

I do not mean that there is any original divine authority in the human Reason, or that there is any original divine authority in the Christian Church, but simply that they are channels, fountains, media, through which God's Holy Spirit speaks to men.

Now, I wish, in the consideration of the Reason as a fountain of divine authority, to call upon my friend, Dr. Brown, in order to save my strength, to read some

passages, as a part of my argument, from my Defence before the Presbytery on that point.

Dr. Brown read as follows:

"We shall now show that the Confession distinctly recognizes the Reason as a great fountain of divine authority. The prosecution shut their eyes to seven chapters of the Confession (10, 13, 14, 16, 18, 20, 26) when they represent that my doctrine of the Reason is erroneous. In their original Charges they state that I 'strike at the vitals of religion' in teaching that the Reason is a great fountain of divine authority. I do, indeed, 'strike at the vitals of religion,' but in a sense quite different from that in their minds, for this doctrine so strikes at the vitals of religion that there can be no vital religion without it. It does indeed enter into the very life of the religion of Jesus Christ. It strikes at the barriers of dead orthodoxy and barren ecclesiasticism, and strikes through them to the fountain head of Christian life.

"(*a*) There can be no such thing as Effectual Calling unless the Reason is a great fountain of divine authority." (*The Defence*, p. 47.)

. . . . . .

"In effectual calling the Holy Spirit acts upon the soul of man. The call is by the divine word and the divine Spirit; always by the divine Spirit, but not always by the divine word; but whether the divine word is used or not, in any case it is the divine Spirit who enlightens the mind to understand the things of God; gives a new heart of flesh for the old heart of stone; renews the will, determining it by almighty power to that which is good. All these operations of the divine Spirit change the mind, the heart, the will, the constituent parts of the inner man. Does any one suppose that the divine Spirit enlightens the mind without using the Reason? Can the heart be transformed from a hard stone to sensitive flesh without using the Religious Feeling? Can the will be determined to that which is good without using the Conscience? If mind, heart, and will are changed in effectual calling, then Reason, Religious Feeling, and Conscience are quickened with the pulsations of the divine Spirit and animated with new life. When the mind is savingly enlightened by the Spirit of God, how can this be otherwise than by the Spirit of God speaking with divine authority

through the forms of the Reason, so that the mind understands the things of God on the authority of God? When the will is renewed and determined by the divine Spirit to that which is good, how otherwise can it be determined than by a divine authority in the conscience overcoming every doubt as to the good, and every disinclination to the good?

"In effectual calling, the calling is effectual simply because the Holy Spirit enters the human Reason with divine energy to work through the Reason effectually in all the avenues of human nature. By effectual calling the redeemed enter into a new world in which divine authority flows through the fountain of the Reason to govern and enrich all their lives.

"(*b*) There can be no such thing as Sanctification unless the Reason is a great fountain of divine authority." (p. 48.)

. . . . . .

"Sanctification is accomplished by Christ's word and Spirit dwelling in them—not by Christ's word alone, but also by the indwelling Spirit; by the word and Spirit usually in Christian lands; but by the Spirit always in every land and in every redeemed person. By the word dwelling in us we understand not only Holy Scripture engraved on the memory, but appropriated by the soul and transformed into principles of holy living and doing. How then shall we understand the indwelling Spirit? Where does the Holy Spirit dwell if not at the central point of our human nature, and where else can that be for any intelligent person than in the Reason, where the conscience is taught to speak the categorical imperative which is now truly a word divine, where the religious feeling is stimulated to holy impulses which are as the breath of God to men; where the Reason is informed with holy thoughts which are truth from heaven; and where the divine presence fills the soul with the assurance of a divine authority which is no bondage, but peace and joy? There can be no sanctification unless the Holy Spirit dwell in the Reason, and so by divine authority govern the life and conduct." (p. 49.)

. . . . . .

"(*c*) There can be no such thing as Saving Faith unless the Reason is a great fountain of divine authority." (p. 50.)

. . . . . .

"If faith is wrought in our hearts by the divine Spirit, can

it be wrought in any other way than through the Reason? Can there be any faith in which the conscience, the religious feeling, and the Reason do not share?" (p. 51.)

. . . . . .

"Can there be any 'receiving and resting upon Christ' if the Reason exclude Christ, if the conscience disapprove of Christ, if the religious feeling shrink from Christ? It is because the Holy Spirit lights up the chambers of the soul, it is because Jesus Christ shines in our hearts with light divine that we see Him and know our Saviour, as we see and know the sun when he rises at the break of day. It is through the effusion of divine energy, the infusion of divine life, the suffusion of divine light, that sinful man is born of God, to live in the Spirit and know his Saviour." (p. 51.)

. . . . . .

"(*d*) There can be no such thing as Good Works well pleasing to God, unless the Reason is a great fountain of divine authority." (p. 52.)

. . . . . .

"In order to do good works it is, therefore, necessary that the Holy Spirit should 'work in the believer to will and to do of his good pleasure.' If the Holy Spirit work in a man, how else shall He work than in the forms of the Reason? The Holy Spirit not only works in the man, but He dwells in him while working, in his innermost soul. And where can the Holy Spirit dwell within us save in the forms of the Reason?

. . . . . .

"(*e*) There can be no such thing as Assurance of Grace, unless the Reason is a great fountain of divine authority. (p. 52.)

. . . . . .

"If the Westminster doctrine of the Assurance of Grace were really a part of the living faith of the Presbyterian Church, no one could accuse me of heresy for teaching that the Reason is a great fountain of divine authority, for let any one consider what is involved in this doctrine. It is the assurance of a believer, the making him certain that he is a child of God. This comes by inward evidence within the soul of man, not merely by outward evidence from Bible or Church. It is the Holy Spirit witnessing with our spirits—Spirit with spirit—not simply

the Holy Spirit witnessing through Holy Scripture and Holy Sacrament. It is the direct and immediate contact of the Holy Spirit with the spirit of the believer—a contact which gives certainty. What can give certainty except divine evidence? What can assure our souls but divine authority? The Confession distinctly teaches that the Holy Spirit is present to the spirit of man with divine authority, and that presence is within the man, in his inmost being, his higher spiritual nature. Where is that presence, if not in the forms of the Reason?

"(*f*) There can be no true Liberty of Conscience unless the Reason is a great fountain of divine authority. (p. 53.)

. . . . . .

"God is the Lord of the conscience. The conscience has no other Lord. The conscience is especially the place where God is Lord and through which He exercises His divine authority. Liberty of conscience is essential to true religious life and activity. No 'implicit faith' is required. No blind obedience is lawful. The Christian conscience refuses to close its eyes. It ever looks upward for authority divine to enjoy the vision of God. Conscience refuses bondage; it is the free-born daughter of God. True religion appeals to the conscience, the faithful monitor of God within the breast. Let the conscience rule the man and God will rule him. Bind him to blind obedience, any external authority whatever, whether church or state, whether system of dogma or letter of Scripture, and you obstruct the dominion of God in the man. The conscience must remain free in order to healthful religious life. The Lord of the conscience must speak with divine authority through the conscience in order that the life may be a holy life. If the Lord of glory inhabit the conscience, make it His throne within the man, all its monitions will be divine. This is the ideal of liberty of conscience which every Christian should seek. You shatter this ideal for yourselves, if you say it is heresy to teach that the Reason—explaining Reason as the conscience—is a great fountain of divine authority.

"(*g*) There can be no real communion with Christ, unless the Reason is a great fountain of divine authority." (p. 54.)

. . . . . .

"The bond between the saints is a bond of faith tied by the Holy Spirit. The Church and the Bible often mediate between

the appropriating faith and the bestowing Holy Spirit; but they do not take the place of either the Holy Spirit or of faith. Faith lays hold of Christ, the direct object of the soul's activities. Faith so unites to Christ as to give fellowship in the graces of Christ and in the life of Christ from His incarnation to His reign and second advent. This faith so unites with Christ that there is direct and immediate communion with Him. Christ with irresistible attraction draws faith to Him and faith rests on His breast. Where can faith and Christ meet save in the Reason? Faith does not ascend to heaven. Christ descends from heaven. Christ presents Himself to faith as its appropriate object, as its source and inspiration, as the ground of its existence and its certainty. Christ imparts certainty to faith in this communion; where alone it can be imparted, in the forms of the Reason." (p. 55.)

. . . . . .

"We appeal to the statements of Holy Scripture respecting those outside the visible kingdom of God, and therefore excluded from contact with Holy Scripture and Church. What shall we say to the preaching of Paul? 'And he made of one every nation of men for to dwell on all the face of the earth, having determined their appointed seasons, and the bounds of their habitation: that they should seek God, if haply they might feel after him and find him, though he is not far from each one of us; for in him we live, and move, and have our being; as certain even of your own poets have said, For we are also his offspring.' (Acts xvii. 26–28.)

"Do none of these offspring of God among the heathen feel after Him? Do those who feel fail to find Him? Do none of those, the root of whose being is in God, look to the root and become conscious of that fountain of life springing up within them? Or are these words of Paul a fancy, incapable of realization, a dream which finds no counterpart in the real heathen man?

"What of the preaching of Peter? 'Of a truth I perceive that God is no respecter of persons; but in every nation he that feareth him, and worketh righteousness, is acceptable to him.' (Acts x. 34–35.)

"Are there no God-fearing men among the nations who hold to the ethnic religions? Are there none who give alms and work

righteousness? Was Peter mistaken? Does God really respect persons and reject a man because he was not born a Hebrew or because he was not educated in Christian lands? Was Cornelius the only illustration of this profound utterance? And was he accepted simply because he might have been a proselyte?

"What of the preaching of Jesus? 'The men of Nineveh shall stand up in the judgment with this generation, and shall condemn it: for they repented at the preaching of Jonah; and behold, a greater than Jonah is here. The queen of the south shall rise up in the judgment with this generation, and shall condemn it: for she came from the ends of the earth to hear the wisdom of Solomon; and behold, a greater than Solomon is here.' (Matt. xii. 41–42.)

"If the proud Assyrians, the inhabitants of Nineveh, were not excluded from repentance and redemption because they had no Bible and were hostile to the kingdom of Israel, why should any other metropolis of the ethnic religions be excluded if they repent in accordance with the teaching they have? Is the Oriental queen the only potentate who has found God by wisdom outside the kingdom? True, the one heard the preaching of Jonah and the other the wisdom of Solomon. But there is no evidence that either of them accepted Holy Scripture or united with Holy Church." (p. 58.)

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"Let me call your attention to my motive for introducing the divine authority in the forms of the Reason into my Inaugural Address. If you will read the Inaugural with any degree of attention, you will see that my purpose was not to extol Rationalism or to magnify Martineau or to teach the salvation of the heathen; but as I distinctly said: 'We have examined the Church and the Reason as seats of divine authority in an introduction to our theme, the authority of the Scriptures, because they open our eyes to see mistakes that are common to the three departments.'" (p. 28.)

"My subsequent use of the divine authority in the forms of the Reason was in order to show that the three seats of authority speak in harmony; and in order to point to their vast importance for a higher Christian life. I said, and I reaffirm what I said: 'the Reason also has its rights, its place and importance in the economy of Redemption. I rejoice at the age of

Rationalism, with all its wonderful achievements in philosophy. I look upon it as preparing men to use their reasons in the last great age of the world. Criticism will go on with its destruction of errors, and its verification of truth and fact. The human mind will learn to know its powers, and to use them. The forms of the reason, the conscience, the religious feeling, the æsthetic taste—all the highest energies of our nature will exert themselves as never before. God will appear in their forms and give an inward assurance and certainty greater than that given in former ages. These increased powers of the human soul will enable men to search those higher mysteries of Biblical theology that no theologian has yet mastered, and those mysteries that are wrapped up in the institutions of the Church to all who really know them. It is impossible that the Bible and the Church should ever exert their full power until the human reason, trained and strained to the uttermost, rises to the heights of its energies and reaches forth after God and His Christ with absolute devotion and self-renouncing love. Then we may expect on the heights of theological speculation, and from the peaks of Christian experience, that those profound doctrines that now divide Christendom by their antinomies will appear as the two sides of the same law, or the foci of a divine ellipse, which is itself but one of the curves in that conic section of God's dominion in which, in loving wisdom, He has appointed the lines of our destiny," (Inaugural Address, pp. 65, 66.)

"Consider for a moment. (*a*) What can you do in private prayer unless divine authority comes to you in the forms of the Reason? How can you fix your mind on God, how can you send forth a petition unto His ears, how can you expect an answer unless the soul reaches forth with all its powers in order to lay hold upon God? And where will you find Him? In the air? Can you ascend to Him? We speak of it in local relations, but we do not really ascend to heaven—God descends to us. He condescends to answer us by entering into us and taking possession of us by His almighty presence and power.

"How can you know that your prayers have been heard? How can you know that they have been answered, unless the divine Spirit gives you that knowledge through a fountain of divine authority bursting forth within you? I appeal to your Christian experience in private prayer. Are you not accustomed to

turn away from the world and fix your attention on God in earnest pleas for help or glad thanksgiving? Have you not been assured as by a touch divine flashing the light you need to see the pathway of privilege and duty, determining you to pursue the right course and calming your feelings into a heavenly peace? No possible influence, of friendly counsel, or hostile threats, can stay or deflect the course of the man whom God has taught in prayer.

"I cannot understand how any one who is accustomed to private prayer, and especially to ejaculatory prayer, and who endeavors to follow the guidance of God's Spirit in his daily life—I cannot understand how any such man could possibly consent to a denial of a fountain of divine authority within his own soul.

"(*b*) Think also of your hours of religious meditation and private communion with God. Some of you, I doubt not, have enjoyed such hours when the world has vanished, Holy Church is forgotten, the Bible lies unnoticed, and nothing interposes between you and God. What heights of religious ecstasy, what raptures of heavenly bliss do those enjoy whose religious feelings thrill with the touch of the divine Spirit, whose conscience is alive with holy concepts, and whose religious imagination sees Jesus Christ in His wondrous grace and matchless beauty. Such heavenly places in Christ Jesus are open to us because Christ Jesus comes to us in accordance with His promise and enters the forms of the Reason, and fills all the avenues of the soul with fountain-streams of sweetest authority.

"(*c*) How can Christian doctrine be rightly unfolded unless by a Christian speculation, guided by the divine Spirit, working within the Reason? There is speculative theology which is mere rationalizing—there is scholastic theology that is mere scholasticism. All such theology is a mere process of logical evolution, subject to the errors into which weak man is ever falling. But a true Christian theologian who would know the truth of God must be willing to do the will of God. Faith cannot go far ahead of practice. Theology cannot outstrip life. Nothing is genuine in Christian theology which is not born of God's Spirit. How else shall the Christian theologian get the truth of God unless he be guided by the Holy Spirit into the truth? The Holy Spirit dwells in the Church and in the individual Christian for this purpose, giving divine authority and

certainty of truth in the forms of the Reason. Thus the theologian grows in the divine doctrine. Thus the Church advances in its most holy faith.

"I have shown you by indubitable evidence from Confession and from Scripture and from Christian experience that 'there are historically three great fountains of divine authority, the Bible, the Church, and the Reason.' It is an historical fact which cannot be gainsaid without closing the eyes to evidence which pervades history.

"Early in our century a great revival movement took its rise in Oxford, and spread all over the Church of England, and the churches which are her daughters. It was the Anglo-Catholic revival, whose essential principle was the recognition of the divine authority in the Church. In the middle of our century another revival movement spread over the English-speaking world, having as its great principle the divine authority in the Bible. In the closing years of our century another great revival took its rise in the East of London and spread all over Christendom in the form of the Salvation Army. This Army is the antithesis of the Anglo-Catholic movement because it is altogether unchurchly. It seeks immediate communion with God, divine authority within the soul by the baptism of Blood and Fire which come from the real presence of Christ and the all-pervading power of the indwelling Spirit.

"I call these three great revival movements of our century to witness that divine authority comes to men through the three great fountains, the Bible, the Church, and the Reason. Every revival movement of the past witnesses a similar confession. Wherever there has been vital religion, wherever there have been holy men and women seeking after the living God, God has given them the assurance of His presence and authority, sometimes through the Church, sometimes through the Bible, and sometimes through the Reason. We cannot deny this without shutting our eyes to history, or refusing to recognize in these revival movements anything but illusions and delusions of pious enthusiasts. I decline to recognize one form as genuine and refuse the others as delusions. I recognize them all, each in its place combining to accomplish the full work of grace in the world.

"Convict me of heresy under Charge I., and you challenge the

Christian centuries. All the ages will be against you, and, in a multitude of voices like the roar of many waters, will denounce you as knowing neither the truth nor the power of God." (*The Defence*, pp. 60–64.)

MR. MODERATOR AND BRETHREN, the view which has been set before you as I trust with sufficient fulness in these extracts is a view without which, as it seems to me, there can be no spiritual religion, and no higher life. I do not see how you can possibly ground the salvation of any of the heathen, or the salvation of any one, outside of certain religious communions, unless you base it upon some such doctrine as this. I do not see how we can enter into personal communion with Jesus Christ and the living God unless we recognize that God's Holy Spirit is present with us, and that we can come and do come into immediate fellowship with God, in which the world, the Bible, the Church, and everything pass away, and our union and contact with God are immediate and complete.

I think you will see, on reflection, that the view I have taken is in the interest of a higher life, and if the brethren will only rise to it, their religious experience will be richer and fuller, more Biblical, more confessional, more like that of the Puritan heroes of the seventeenth century, and more like that of the great reformers of the sixteenth century.

I am not teaching any heresy in this doctrine. I am teaching the truth of God which has come down through the ages of the Christian Church.

As to Martineau.

"I said that 'Martineau did not find divine authority in the Church or the Bible, but he did find God enthroned in his own soul.' Holy Scripture is sufficient

to give saving knowledge even when men do not find it. It is sufficient for all men—for the entire world. But all men do not, in fact, gain this saving knowledge from the Bible. I did not say whether Martineau gained saving knowledge from the Bible or not. That was not the question before me in the Inaugural. I was considering the question of religious certainty, the fountains of divine authority. I did not say that Martineau rejected the way of salvation revealed in the Bible, but I said Martineau could not find certainty of divine authority in the Church or the Bible. He says he did not and could not. We have no right to doubt him or dispute him in this statement of his experience. The only question which was raised by me was, whether he did find God 'enthroned in his own soul.' That is a question of fact. I did not raise the question whether a man who rejects the way of salvation revealed in the Scripture may find God enthroned in his own soul. I did not consider that question in the Inaugural. I decline to consider it now. I insist that this court shall confine itself to the questions raised in my Inaugural and not rove over the field of theology generally, under the guidance of this erratic committee. I have shown that Scripture, history, Confession, and experience prove that there are those who find God enthroned within their own souls. The question is whether Martineau was such a person. I have said that he was such a person. It is possible I may be mistaken in this question of fact. But such a mistake is no heresy unless I am a heretic under the general charge that 'the Reason is a great fountain of divine authority.' If I am in error about Martineau, the example used by me was a bad one. You may think so if you please. A bad example may discredit a proposition, but it does not dis-

prove it. If my opinion of Martineau errs at all, it is on the side of Christian love, which covers over a multitude of sins. The prosecution run great risks of trenching on Christian love, if they venture to assert that Martineau is mistaken when he claims to have found God enthroned in his own soul." (*The Defence*, p. 66.)

The Church.

I have claimed, under the second charge, that the Church is a great fountain of divine authority. "The Westminster Confession clearly shows that the visible Church is the kingdom of the Lord Jesus Christ; that He hath given the ministry, oracles, and ordinances of God unto it; and 'doth by His own presence and Spirit make them effectual.' If the Presbytery is not a court of the Kingdom of Christ erected by divine authority; if you have not been given the ordinances by Jesus Christ to administer in His name; if Jesus Christ and his Spirit are not present in the midst of you—then you are no part of the Church of Jesus Christ at all. I do not think that any considerable number of you hold such heretical views. But whatever this court may conclude, I declare that the statement of the Confession is a true statement. There is divine authority in the Church; it is Christ's kingdom, He reigns over it, He inhabits it by His Spirit, He makes its institutions efficacious, He grants access to Himself through His Church. Our Presbyterian fathers rejoiced in such access. Their descendants enjoy this unspeakable privilege. Are we to be robbed of our birthright? Are you ready to banish from the official doctrine of the Presbyterian Church the witnessing Spirit, the indwelling Christ, the living God, in order to incase the Holy

Trinity in the covers of a book? Shall we destroy the Church in order to exalt the Bible?" (pp. 70–71.)

"The sacraments which we are constantly enjoying in our churches, being instituted by Christ, must have divine authority. Whenever we use them, the authority of God is impressed upon us by the words of institution and the prayer of consecration. They are not mere ceremonies established by divine authority. They are means of grace, they give something of immense value to us. They signify, seal, and exhibit the benefits of Christ's mediation. There is divine authority in this signifying, sealing, and exhibiting. There is no less authority in what the sacraments set forth than in what Holy Scripture sets forth. They 'strengthen and increase faith and all other graces.' How can they do this unless divine authority imparts that strength and increase?" (p. 71.)

. . . . . .

"If the efficacy of a sacrament depends upon the working of the Holy Spirit, then the Holy Spirit must be in touch with the believer in the sacrament, and if He is in touch with the believer, God is in touch with him, and there is divine authority imparted in the presence and power of the Holy Spirit." (p. 71.)

Let me call your attention to a word spoken by Dr. Lampe yesterday afternoon. He says, if I understood him aright—and I endeavored to take down his exact language—"We know nothing of Christ except through the Bible story." He acknowledges it. We know nothing of Christ except through the Bible story. Are you ready to consent to that, commissioners of the General Assembly? Have we no knowledge of Jesus Christ in the sacrament of the Lord's Supper? Are we not brought into personal relations with Jesus Christ, into

a personal knowledge of Him at the Lord's table? I cannot subscribe to Dr. Lampe's doctrine. It is rank heresy. If there ever was a heresy promulgated in the history of the Church, that statement is the rankest heresy.

"If our Lord is really present to us in the Lord's Supper, is not divine authority present with us in Him? and if divine authority is present in Him are not all of the spiritual benefits thus received of divine authority, and do they not come with certainty to our souls? The Holy Supper is often more potent than Holy Scripture in the impartation of divine authority and certainty. It is thus rightly named a sealing ordinance. You cannot deny that there is divine authority in the Church without denying the presence of Christ in the Holy Eucharist, without robbing the sacraments of their historic value to the Christian world. I appeal to your religious experience in the communion hour. Have we not enjoyed fellowship with our divine Master at the Lord's table? Have not our religious emotions been quickened by a power divine? Have we not felt in our inmost being the divine touch? Have we not seen the Lord with eyes of faith and holy love? Listen to the testimony of prophet and sage, of evangelist and apostle, of martyr and saint, of theologian and reformer, of holy men and women in all ages, an innumerable company, whose voices flow down the ages, from all churches, from all lands, and in every language and tongue, through every variety of liturgy and ceremony and rite:

"O Christ, Saviour divine! we testify to Thy gracious presence, Thy sweet authority, Thy heavenly gifts of comfort and of joy, in the sacrament of Thy love." (p. 72.)

"The Church has no divine authority in itself—apart

from God. Its divine authority is in that its chief institutions were divinely appointed, and that these divinely appointed institutions are the ordinary channels of the divine grace. The Church is a fountain of divine authority. The divine authority flows forth from God Himself, as the sole original fountain-head and ultimate source, through the fountain of the Church, and distributes its healing and life-giving streams through all its ministries." (p. 74.)

The Case of Spurgeon.

Now, a few words as to the case of Spurgeon:

"The prosecution use the passage from the Inaugural referring to Spurgeon, under both charges. They harp upon it in their argument to excite prejudice against me. What I said about Spurgeon may not be pleasing to the prosecution. It may be very distasteful to many members of the presbytery." So I would say here. It may be distasteful to many, perhaps to most, of the members of the court. "But is it not strictly true? Is it not a fact that Spurgeon is an example of the modern evangelical? Did he not assail the Church and the Reason in the interest of the authority of Holy Scripture? These are well-known weaknesses of the great preacher. But he had so many excellent Christian qualities that the world pardons his weakness in the matters referred to and honors him as the noblest evangelical of them all. It may seem strange to some of you that 'the average opinion of the Christian world would not assign him a higher place in the kingdom of God than Martineau or Newman.' But a little reflection ought to convince you that it is so. Spurgeon is the hero of the Evangelical party in the Church. He was generally esteemed to be the greatest preacher of the gospel in our

generation. His sermons have been of incalculable benefit to multitudes. I yield to none in admiration of Spurgeon as a master of sacred eloquence."

It was my privilege to enjoy many times listening to his eloquence, and to know a great deal of the work he was doing.

"But any one who understands the state of religious opinion in England knows that Spurgeon only represented a party among the Non-conformists, and that a considerable proportion of them would not assign him a higher place than Martineau or Newman. He lived to find himself in a hopeless minority in his own denomination and to separate from the mass of the Non-conformists, whom he accused of being on the 'down grade.' He was not a master of Christian theology, and, therefore, so soon as he went out of his sphere to teach men wiser than himself he made a sad failure among those who were nearest to him in denominational affinities. In the average opinion of the Church of England Spurgeon would certainly assume the lowest place of the three. Among Roman Catholics, the world over, Newman would have the pre-eminence. Among German Protestants, Martineau would hold the highest rank. In North America, without doubt, Spurgeon is in greatest estimation. I did not assign Spurgeon a lower place than Newman or Martineau. I did not say that in the opinion of the Christian world he would take the lowest place of the three. I did not give the average opinion of the United States, or of Non-conforming England, or of Presbyterian Scotland, or of Ulster, or of the Evangelical party; but I said correctly, 'The average opinion of the Christian world would not assign him a higher place in the kingdom of God than Martineau or Newman.'" (pp. 79–80.)

I think that no man who really looks the situation in the face can possibly deny that proposition.

"But suppose I made a mistake in statistics, and my opinion is wide of the facts, is such a mistake heresy? Am I responsible for the facts? Am I to blame if Spurgeon in public estimation shares the throne with Martineau and Newman? Is it any merit of mine if he be exalted above them? Can I change the facts by my statements about them? . . . . Where do they find in the Westminster Confession that the modern Evangelical is the most favored of the children of God?" (p. 80.)

"As Christian ministers I ask you, ought we not to estimate these three representative Christians of our time with Christian love? And is it not Christian love to say, we refuse to determine which of them has the highest place in the kingdom of God? We recognize each as a prophet to our generation. We see in each a man who has enjoyed the light of the divine countenance, and who has reflected in his life and character the graces of a child of God.

"I asked the question in the Inaugural and I ask it again of this court, whether in view of all the facts adduced, 'may we not conclude, on the whole, that these three representative Christians of our time, have, each in his own way, found God and rested on divine authority?' Let each juror answer this question for himself. You must answer it in your own verdict. You must either say with me, 'Yes, we may conclude that Spurgeon, Newman, and Martineau have rested on divine authority'; or you must say with the prosecution, 'No! Spurgeon found God in the Bible, but Newman did not find God in the Church, and Martineau did not find God in the Reason. They were mistaken in their

religious experience. They were without God and without divine authority for their faith and life.' You cannot evade the issue, if you bring this issue into the charges. Your verdict will be interpreted by the Christian world as yes or no to the question. *I rejoice in this issue. Again I say, Yes*; and I would deliberately choose the company for time and for eternity of Martineau and Newman rather than of such loveless persons as would cast them out of the congregation of the faithful." (*The Defence*, pp. 80–81.)

But let me say, Mr. Moderator and brethren, in my opinion you have no right to bring any of these concrete cases into the Charges. They are not in the Charges. Anything that I have said as regards Martineau, or anything that I have said as regards Newman, is not made an element of charge against me. The references to them in the extracts which I have read are only brought in for the purpose of proving the proposition stated in the Charge, and therefore you have no right to bring these concrete cases into the Charge. If you do, you must meet the issue before the Christian world.

Now, let me call your attention to another serious error made by Dr. Lampe in his argument. He said, if I mistake not, that the Bible was the only and final authority to Christ and His apostles. So I took it down. Think of that statement, brethren. Did Christ and His apostles give us nothing more than they found in the Bible, the Old Testament, in their hands? Did Jesus Christ depend for His authority upon the Old Testament Scriptures? Did He not come forth as the incarnate Word, fresh from the bosom of the Father with a new revelation, infinitely more precious than all that is contained in the Old Testament? Did the apostles limit themselves for their authority to the Old Testament

Scriptures? Did they not claim that the Spirit of God was within them, that they spake as the ambassadors of Jesus Christ, and that they spake with the same authority with which the Old Testament prophets spoke—a word coming forth fresh from the enthroned and glorified Jesus with an infallible, divine authority to all who received it? You can make but one answer to this question. The statement of Dr. Lampe is dreadfully wrong.

Another statement that Dr. Lampe made is no less false. He said that faith is based solely on the authority of Holy Scripture. Do you believe that, brethren? Is your faith based solely on the authority of Holy Scripture? My faith is not. My faith is based upon Jesus Christ, my Saviour, and upon Him alone. The Holy Scripture has brought me to Him to rejoice in knowledge of Him as a person, to live in communion with Him, and to derive my authority directly from Him and from His Holy Spirit.

Now, brethren, I have gone over the first and second Charges. I hope that you understand my position exactly. If you wish to condemn me for heresy for this I cannot help it. Here I stand before God. These are my views, and I shall proclaim them as the truth of God as long as I live.

Mr. Moderator, I have just received a question in regard to the matter that I have passed over, which, in accordance with my promise, I shall first answer.

"Would you kindly give me your interpretation of the word 'fountain,' as you use it, and oblige."

I thought I had done this, but it seems exceedingly difficult to make my meaning plain. I use "fountain" not in the sense of the original source, because, as I have said, God alone is the original source. But I use

"fountain" in a figurative sense, as that out of which the waters flow, synonymous with "channel" and "medium.' God is the only original source. The Bible, the Church, and the Reason are channels, media, means of grace, by which God communicates His divine authority to men. I hope I have made myself plain.

Errors in Holy Scripture.

I now wish to bring forth and state positively what my views are with reference to errors in Holy Scripture. In the argument on the logic of the case, I endeavored to show that my views were not inconsistent with the Westminster Confession and with Holy Scripture. I now wish to bring forward what is my position. I recognize that I have asserted that there may have been errors in the original autographs of Holy Scripture. I have not said that there *must be*. There may be—there may have been errors in the original autographs. Now I quote from my argument before the Presbytery:

"I shall adhere to the policy which I have thus far followed with regard to errors in Holy Scripture. I have refused to accept the dogma that the original autographs were inerrant. I have maintained that there are errors in the texts which we have and in the best texts we can get by the science of textual criticism, and that it is improbable that the original texts, if we could discover them, would be much different from those we have in that regard. But I have refused to affirm that there were errors in the original autographs; because it is unscientific and it is unscholarly and it is against the truth-loving spirit of Christianity to make affirmations of dogma where we have no certain evidence. I have always refrained as far as possible from pointing to errors in the present text of Scripture. But every Bib-

lical scholar admits them. There are a few professors in the Biblical department in American theological seminaries who hold to this modern dogma of inerrancy, and in the interests of this dogma try to explain away the errors of Holy Scripture, but even these Procrusteans are obliged to admit that they must resort, for some of the most stubborn of them, to conjectures that these were bastards to the original text." (*The Defence*, p. 105.)

Now just let me say a word about the danger of this position. True scholarship follows the best texts we can get by the processes of textual criticism, after an examination of all the manuscripts, of all the versions, of all the citations in ancient authorities. We build on that. That is the best text we can get. Now do you not see that there is peril in conjecturing as to the texts further back, because, if you are going to conjecture in the interests of orthodoxy, how are you going to prevent a man from conjecturing in the interest of heterodoxy? If you are going to insist on the *a priori* argument that because of the truthfulness of God and the essential nature of divine revelation, these original autographs must have been inerrant, how are you going to resist those men who speculate, on what seems to them to be valid grounds, that there are errors of a different kind in Holy Scripture? How are you going to meet the rationalists? How are you going to meet the man who questions, on what he deems to be valid grounds, those texts of Holy Scripture (there are only a few of them) which teach directly the doctrine of the Holy Trinity? My dear brethren, you are imperilling the faith by this position vastly more than any scholar can, by accepting the view which I have stated, that there may have been errors in the original documents. But whether there were errors in the original

autographs or not, what matters it, so long as we may maintain our position, that there are no errors that at all interfere with matters of faith and doctrine? And now let me read you a word from my lectures on *The Bible, the Church, and the Reason:*

"The dogma of the inerrancy of the original autographs of Scripture is one that has no practical advantage, but it may be very pernicious in effect. It is recognized that all modern versions of the Bible contain errors. King James' version and the Revised Version alike have them. You cannot escape them in the use of the Scriptures in church, in Sunday-school, in prayer-meeting, and in the home. The people are exposed to their influence, they cannot avoid them. Our opponents say that these errors were not in the original autographs. What comfort does this offer to the people of the Church who never can see the original autographs and could not read them if they saw them? What possible advantage is there in making statements as to documents to which no man has any access at the present time, or has had access for centuries? Such a pure speculation which is beyond any possibility of verification cannot be promulgated as a dogma of the Church; for no dogma has any binding force that cannot be proved by clear, definite, and decisive evidence and be verified by criticism. The people who use the English Bible have no use for such a dogma. They desire to use their Bibles with profit and to know the grounds of their faith. If the dogmatician should say to these English readers of the Bible, who have found errors that they cannot explain, 'A proved error in Scripture contradicts not only our doctrine, but the Scripture claims, and therefore its inspiration in making those claims,' some would doubtless respond: Then I must give up

my Bible, for I cannot deny the errors. If the dogmatician replies, Oh, but these errors were not in the original autographs; the inquirer asks, But how do you know that? Have you ever seen these original autographs? Has any divine for a thousand years or more seen them? The dogmatician can only answer, No, and reaffirm his theory that Holy Scripture must have been inerrant, for God could not give a revelation that would not be inerrant. And thus they reproach the *real* Bible in which errors are found, in order to exalt an *imaginary* Bible which neither they nor any one else has ever discovered. We are not surprised that such arguments excite grave doubts in many minds in our times, whether the Bible is inspired at all.

"Biblical scholars pursue a very different course. They say, Yes, there are errors. There is no doubt about that. These errors are also in the original texts. There is no fault of translation. They are in the best manuscripts we have. It is altogether probable that they were also in the original autographs. But we have not the original autographs and we refuse to dogmatize about errors in them. But what do these errors amount to, after all? They are only in minor matters, in things which lie entirely beyond the range of faith and practice. They have nothing to do with your religion, your faith in God and His Christ, your salvation, your life and conduct. They are but as motes in the sunbeam. They are the imperfections of the human medium through which the divine revelation has come. Men at the best are and must be earthen vessels, in their preaching and writing unto you. Take the word of God that is in these writings, its message of grace and salvation, its lessons of life, its holy guidance, its precious comfort. These will attest themselves as the word

of God to you and yours as they have to others in all ages.

"The Scriptures of the Old and New Testaments were immediately inspired by God, but that inspiration did not make them inerrant in matters of science. They have been kept pure in all ages, so far as their purpose of grace, their message of salvation, their rule of faith and practice is concerned; but they are not inerrant now, and it is not probable that they ever were inerrant in matters of chronology. They are sufficient to give that knowledge of God and of His will which is necessary unto salvation; but they are not sufficient to give the knowledge of astronomy and botany. They are the only infallible rule of faith and practice; but they are not the only infallible rule of agriculture and navigation, of commerce and trade, of war and finance. The Scriptures are pure, holy, errorless, so far as their own purpose of grace is concerned, as the only infallible rule of the holy religion, the holy doctrine, and the holy life. They are altogether perfect in those divine things that come from heaven to constitute the divine kingdom on earth, which, with patient, quiet, peaceful, but irresistible might, goes forth from the holy centre through all the radii of the circle of human affairs and persists until it transforms the earth and man.

"The Bible is the infallible rule of faith and practice. It is such, and no one can make it otherwise. It claims to be such, and it vindicates its own claim. The reader of the Bible will find this out for himself. The authority of God will grasp his heart and conscience with irresistible power. The preaching of the Word accompanied by the divine Spirit will ever continue its blessed work of convicting and converting men, of sanctifying them and redeeming them. The Bible will ever be the counsellor

and guide of our race, until the second advent of our Lord. From the Bible new truth will break forth for every generation, to lift men higher and urge them onward in the paths of sanctification. The Bible is the master, the infallible rule, and it will ever continue to break in pieces every other rule of faith and life that men may put in its way. It will ever continue to give new theology, new religious forces, and new, fresher, and grander guidance in holy life and conduct to all the successive generations of mankind.

"There are errors in the Bible as there are spots upon the sun. The sun-spots do not disturb the light and heat and chemical action of the great luminary or check his reign over our solar system. They suggest that there are greater mysteries of glorious light and reign beyond our vision. So the errors in Holy Scripture do not in the slightest degree impair the divine authority that shines through them or the reign of grace that is carried on in this world by means of them. They intimate, however, that the authority of God and His gracious discipline transcend the highest possibilities of human speech or human writing; and that the religion of Jesus Christ is not only the religion of the Bible, but the religion of personal union and communion with the living God." (*The Bible, the Church, and the Reason*, pp. 111–115.)

Higher Criticism.

First I shall give you the summary of my views as to the Hexateuch from my volume entitled *The Higher Criticism of the Hexateuch*, submitted as part of my argument before the Presbytery of New York:

"(1). We have not one narrative, but a fourfold narrative of the origin of the old covenant religion, as we

have a fourfold gospel giving the narrative of the origin of the new covenant religion. There is, indeed, a remarkable correspondence in these four types or points of view. The Ephraimitic writer may be compared with Mark, the Judaic writer with Matthew, the priestly writer with Luke, and the Deuteronomist with John. The difference between the Pentateuch and the Gospels is that the four narratives of the Pentateuch have been compacted by a series of inspired Redactors; whereas the Gospels have to be harmonized by uninspired teachers in the Church. This unity in variety strengthens the credibility of the Pentateuch. As the four Gospels contain the gospel of Christ, so the narratives of the Pentateuch contain the law of Moses. As our Saviour is set forth by the Evangelist as the mediator of the new covenant, Moses is set forth by the narratives of the Pentateuch as the mediator of the old covenant.

"(2). The Pentateuch does not give us one Mosaic code, but several codes of Mosaic legislation, a decalogue of worship, a judicial code of several decalogues, a people's code, a code of holiness, and a priest-code, contained in the narratives, somewhat as the Gospels present us the discourses of Jesus in the varied types peculiar to Mark, Matthew, Luke, and John. As we harmonize the Gospels for a complete and symmetrical statement of the doctrine of Jesus, so we harmonize the codes of the Pentateuch for a complete and symmetrical exposition of the law of Moses. The law was given through Moses, grace and truth came through Jesus Christ.

"(3). The Mosaic legislation was delivered through Moses, the great prophetic law-giver of Israel, and then unfolded in historical usage and interpretation in a series of codifications by inspired prophets and priests;

but it was in several stages of advancement in the historical life and experience of Israel from the conquest to the exile. It was a divine ideal, a supernatural revealed instruction, to guide the people of Israel throughout their history, and lead them to the prophet greater than Moses, who was to fulfil and complete his legislation. The law was the true light of Israel until the first Advent, even as the Gospel is the light and guide of the Church until the Second Advent. Israel appropriated more and more the instruction of the law, as the Church has appropriated more and more the doctrine of the Gospel. The history of God's people under both covenants has been essentially the same—a grand march forward under the supernatural light of a divine revelation.

"(4). Law and Prophecy are not two distinct and separate modes of revelation, but the same. The law of Moses was as truly prophetic as legal. Moses was even more a prophet than a law-giver. The prophets of God that followed him all give divine law as well as divine prophecy. As the apostles in the new covenant were not merely expositors of the Gospel, but came forth from the risen and glorified Christ with new revelations, enlarging and completing the Gospel; so the prophets were not *mere* expositors of the law, but came forth immediately from the presence of Yahweh as really as Moses did, with new revelations enlarging and completing the old. The distinction between law and prophecy in the Bible is a fluctuating one, so that the whole divine revelation may be called law, and also prophecy, according to the usage of the Bible itself.

"(5). There is in the law, as in the Gospel, a divine transforming power which shaped the history of Israel, as the Gospel has shaped the history of the Church in successive stages of appropriation. Not without some

reason have many recent Christian scholars after Neander divided the history of the Christian Church after the names of the chief apostles as indicating the various types of Christianity. With even more reason might we divide the history of Israel into stages of progress in accordance with the several law codes. The Christian Church may look forward to a time when the unity and variety of the gospel of Christ shall be fully manifested in her historic life. The people of Israel also reached a stage when in her historic life the several codes harmonized, and the whole bent of the nation was in the study of the law and a conscientious fulfilment of it, and then in the fulness of time Christ Jesus the Messiah came.

"The deeper study of the unity and variety of the Pentateuchal narratives and laws, as we defend them historically against Reuss, Kuenen, and Wellhausen, and advance in the apprehension of their sublime harmony, will fructify and enrich the theology of our day, just as the deeper study of the unity and variety of the gospels by the school of Neander, in the defence of them against Strauss, Renan, and Baur, has been an unspeakable blessing in the past generation. This having been accomplished, we may look forward to a time when our eyes shall be opened as never before to the magnificent unity of the whole Bible in the midst of its wondrous variety. Then the word of God, as one supernatural divine revelation, will rise into such a position of spiritual power and transcendent influence, as shall greatly advance the kingdom of our Lord and Saviour Jesus Christ, and hasten the realization of that most blessed hope of both the Old and New Testaments, the coming of the Messiah in glory." (pp. 160–162.)

You hear a great deal in these times about the perils

of the Higher Criticism. The Higher Criticism as applied to Holy Scripture is the same discipline, essentially, that is applied to the study of the classic literature of Greece and Rome, and also to the ecclesiastical literature of the Church. It has to do only with the literary forms of Holy Scripture; it does not at all interfere with the substance of Holy Scripture. The only thing that the Higher Criticism can do is to answer questions as to authorship and date, as to the original structure of books, whether they came at once from an original author; how far they have been edited and re-edited. But the only thing we have to do as Christians, with our Holy Scripture, is to know whether the Bible, as it now is, is the holy and inspired word of God. Now I ask you, what have all these questions, which have simply to do with the production of the Bible—what have they to do with the question whether the Bible, as it now is, is the holy and inspired word of God or not? Those of us who are engaged in the study of the Higher Criticism claim that we are making the Old Testament more real, and more powerful, giving it a higher and grander position before the Christian scholars of our day. The Bible is being studied as never before, and the results of this movement of the Higher Criticism will be grand and glorious in the future of the Christian Church.

There will now be read a citation from the volume, *The Bible, the Church, and the Reason*, in which I endeavor to sum up some of the advantages of the Higher Criticism:

"Criticism is destructive of traditional dogma, but it is constructive of Biblical doctrine. Criticism from its nature cannot destroy anything but error. It searches for truth. It gives vastly more than it takes away.

"Criticism is nothing more than a scientific, exact,

exhaustive study of the Bible itself. It makes the Bible more real, more historic, more pregnant with holy meaning than ever before, simply because it studies the Bible more extensively and more profoundly. Criticism has made the Bible a new book, because exhaustive study has found numberless new things in it, unknown to students who neglected to study it. In the times of the supremacy of the traditional dogma it was studied only on the surface and for dogmatic or practical purposes. It was merely a treasury out of which there might be a capricious selection of texts to prove statements of dogma which were already constructed by deductive reasoning. It was a thesaurus of texts for pulpit discourse from which one might start an evangelical sermon. But now the Bible is studied ardently from cover to cover, by large numbers of enthusiastic students the world over, who are bringing forth treasures new and old to enrich the Church of God. Think not the critics are destroying the Bible which they study with so much enthusiasm and love. They have enthroned the Bible in a higher position than it has ever held before in the estimation of the world. They have restored the Bible to its place as the queen of the literature of the world, as the holy book for the man of science, the student of literature and art, the historian and philosopher. Criticism has created several new theological disciplines, such as the Contemporary History of Israel and of Christ and His apostles, Biblical Literature, and Biblical Theology, and these are furnishing the divine material for a nobler theology and a nobler Christian life.

"2. The traditional view of the Biblical books attached all the law to Moses, all the psalms to David, all the wisdom to Solomon. The prophets and histories were the only books which were left as guides to the develop-

ment of the religion of Israel. There was a gap of centuries between the Old and the New Testaments. My friends, all this has changed. The gap between the books has been filled up by modern criticism. God did not leave Israel without guidance when she needed it most, under the Persian and Greek yoke, when exposed to the distracting influence of other religions and civilizations. God's Spirit abode with His people after the theophanic presence had departed, and holy men of God spake under His influence in sacred song and wisdom, in historic composition and prophecy through all that long period of waiting for the Messiah. There is an unbroken continuity in divine revelation until divine revelation reached its summit in Jesus Christ and His apostles. If Criticism had done nothing else than fill up this supposed chasm in divine revelation, it would have conferred a boon of greater value to the world than all the theories and traditions it has destroyed.

"3. Another great result of Criticism is the destruction of the pessimistic theory that the history of Israel was a history of backslidings. Modern Criticism finds a legislation given by Moses, but unfolding in a series of codes until Ezra, the second Moses, laid its capstone. Criticism finds Israel from David onward until the Maccabean age, singing and praying, in ever increasing wealth of devotion, sacred psalms, responding from the heart of the people to the teachings of God's law. Criticism finds a succession of sages from Solomon to the latest times preparing the way by their sentences of wisdom for the jewelled sentences of the Messiah in His training of the twelve. Israel did not go on declining through the centuries. Israel went on steadily advancing through the centuries in religion, in doctrine and in morals, in wisdom, in law, in psalmody, and in

prophecy, undergoing that divine training which prepared her to welcome the Messiah and furnish Him with the apostles and prophets of the new dispensation. What has Criticism destroyed that can compare with this immense gain?

"4. Criticism has shown a wonderful variety as well as unity in the Scriptures. Criticism has called attention to the marvellous beauty of Biblical literature. It has shown that there are works of the imagination in the Old Testament in prose and poetry, preparing the way for those visions of truth contained in the parables of our Lord. It has disclosed wondrous specimens of gnomic, lyric, and dramatic poetry. It has discovered forms of the poet's art which approximate to the classic epic poetry. It has disclosed four distinct varieties of historic composition, and detected in their sources ancient poems and legends which the older Biblical scholars never dreamed of. It has more than doubled the number of Hebrew prophets. It has increased the inspired penmen to a much larger and richer company. The old choirmasters of the inspired congregation remain. Moses and David, Solomon and Isaiah, and every one of the ancient worthies retain their historic places. But we now see that they were not merely soloists appearing at great intervals in the progress of divine revelation, alone, without masters, without disciples and without associates, but that they were leaders of choirs of lawgivers, historians, prophets, poets, and sages who make the entire history of Israel a grand oratorio of redemption." (pp. 146–149.)

I have been requested by a member of the House to state definitely my views in regard to my assertion that Moses did not write the Pentateuch in its relation to the words of Jesus with reference to Moses and the Penta-

teuch. I shall endeavor to do so by quoting from *The Bible, the Church, and the Reason*:

"But some will say, 'Was it not the common opinion in the days of our Lord that Moses wrote the Pentateuch, and that Isaiah wrote the book that bears his name?' We answer, that so far as we know, it was the common opinion that Isaiah wrote the book that bears his name. But it was also the common opinion that David wrote the Psalter. As to the Pentateuch, opinion was divided whether it was lost when the temple was destroyed by the king of Babylon, and restored or recast by Ezra or not. If you insist upon interpreting the New Testament by the opinion of the Jews of the time as regards Isaiah and the Pentateuch, you must follow it also as regards the Psalter. But why should we interpret Jesus and His apostles by the opinions of the Jews of His time? Why should we suppose that He shared with them in all the errors He did not oppose and refute? Jesus either knew that Moses wrote the Pentateuch or He did not know. (*a*). If we said that Jesus did not know whether Moses wrote the Pentateuch or not, we would not go beyond His own saying that He knew not the time of His own advent. Those who understand the doctrine of the humiliation of Christ and the incarnation of Christ find no more difficulty in supposing that Jesus did not know the author of the Pentateuch than that He did not know the day of His own advent.

. . . . . .

"(*b*). If on the other hand any one should say Jesus must have known all these things, and He ought not to have used language that might deceive men; we respond, that His language does not deceive men. We have shown from literary usage in all ages and in the

Bible itself that it is equally true and good language for the critics as for the anti-critics. The question is, shall we interpret the words of Jesus by the opinions of His contemporaries? This we deny. Jesus was not obliged to correct all the errors of His contemporaries. He did not correct their false views of science. He was the great physician, but He did not teach medicine. He was greater than Solomon, and yet he declined to decide questions of civil law and politics. He never rebuked slavery. Is He responsible for slavery on that account? The Southern slaveholders used to say so; but even they are now convinced of their error. The signs of the times indicate that in a few years the anti-critics will disappear as completely as slaveholders.

"The attempt to bar the way of the Higher Criticism of the Old Testament by interposing the authority of the New Testament is an unworthy effort to make our Lord and His apostles responsible for those conceits and follies of ancient tradition which modern American traditional dogma with great unwisdom has accepted and endorsed." (pp. 127–128.)

Dr. Lampe argued against me, as if I held the opinion that Jesus did not know, or that He accommodated His instruction to the ignorance of His hearers. He ignored my opinion as stated in the same volume as follows:

"It is the custom in literature to name anonymous writings after the name of the chief character in it, or the theme of it, and then in that case it is quite common to personify the book and represent it as saying or teaching this or that. When Jesus uses Moses as another name for the Law or Pentateuch, and when He represents that Isaiah prophesied, it is by no means certain that Jesus meant to say that Moses wrote the Pentateuch, or Isaiah wrote the prophecy referred to, *e. g.*

The book of Esther is named Esther not because any one ever supposed that she wrote it, but because she is the heroine, the theme of the book; and when I say, as I often have said, Esther never uses the name of God, or teaches any doctrine of faith, you will understand me as using Esther for the book of Esther.

"No one ever supposed that Ruth wrote the book of Ruth, or would suppose that I regarded her as its author if I should say, as I have often said, Ruth teaches a doctrine different from Deuteronony and Ezra in representing that even a Moabitish woman may enter the kingdom of God. The usage of the New Testament is also sufficiently clear at these points. Thus the epistle to the Hebrews, iv. 7, uses David as a name of the Psalter. It was the common opinion until the 18th century that David wrote all the Psalms; but no Biblical scholar at present, so far as I know, thinks that the epistle to the Hebrews forces him to hold that David is the author of the entire Psalter. Why, then, should any one insist that when the name Moses is given to the Pentateuch, and Isaiah to the book of Isaiah, that it implies that Moses and Isaiah wrote all those writings attributed to them by tradition?" (pp. 127–128.)

Progressive Sanctification after Death.

I shall call your attention, first, to a passage from the Evidence submitted to the Presbytery of New York:

"But justification by faith belongs to the earlier stages of redemption. All those who are justified are also sanctified. No one can be ultimately and altogether redeemed without sanctification.

"It is necessary that believers should have the indwelling of the Holy Spirit, and that they should be 'more and more quickened and strengthened in all sav-

ing graces to the practice of true holiness, without which no man shall see the Lord,' and 'so the saints grow in grace, perfecting holiness in the fear of God.' The doctrine of immediate sanctification is a heresy which has always been rejected by orthodox Protestants.

"The Westminster Confession definitely states: 'This sanctification is throughout, yet imperfect in this life.' If imperfect in this life for all believers, there is no other state in which it can be perfected save in the Intermediate State. The Intermediate State is therefore for all believers without exception a state for *their sanctification.* They are there trained in the school of Christ, and are prepared for the Christian perfection which they must attain ere the judgment day.

. . . . . .

"There are some theologians who persuade themselves that they can believe in the immediate justification and the immediate sanctification of infants, of incapables, and of heathen adults, in the change of death, in that supreme moment of transition from this life to the Middle State. Such a theory may be stated in words, but it is inconceivable in fact. What a transformation would take place in the intellectual and moral powers of infants, incapables, and the dark-minded heathen! Such a metamorphosis is not taught in the Scriptures or the Creeds. It would violate the intellectual and moral constitution of man.

"Those who believe it may claim that all things are possible to God. But it might be said that it is just as possible for God to use the water of Baptism, *ex opere operato*, to work regeneration, as Sacramentarians believe; and it is just as possible that the elements of the Lord's Supper may be changed into the real body and blood of our Lord, as the Roman Catholics believe.

These divine transformations are just as possible to God and just as credible to the mind of man as the immediate transformation of a little babe into a perfectly holy man in the image of Jesus Christ; or of the instantaneous accomplishment of the entire *ordo salutis* for an idiot in the very moment of death. All such magical doctrines are subversive of the entire structure of Protestantism. They belong to an age of magic, and have no place in an age of Reason and Faith.

"It was a keen thrust of Möhler that Protestantism without a purgatory must either let men enter heaven stained with sin, or else think of an immediate magical transformation at death, by which sin mechanically and violently falls off from us with the body. Hase justly replied that Protestantism would not accept this dilemma, and that Protestant Theology taught that the divine grace was operative, and men capable of moral development after death. This view is the established opinion in German Theology. Dorner, Martensen, Kahnis, and other divines teach that there must be a growth in sanctification in the Middle State. All Protestants must accept this doctrine or they are sure to be caught in the inconsistency of magical, mechanical, and unethical opinions. This opinion is commonly held by Protestants in Great Britain. Why should Protestants in America lag behind their brethren in Europe? We have been caught in the snares of recent errors. Let us break through the snares and re-establish ourselves in the ancient Christian doctrine of the Middle State.

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"The doctrine of immediate justification and sanctification at death involves the conceit that the child who dies in infancy a few moments after birth is immediately justified and sanctified, receives saving faith and all the

Christian graces in an instant; while his brother, who lives in this world, is not justified until he reaches the age in which he can exercise personal faith, and then he has all the struggles of life to undergo until he reaches the limits of human life without the comforts of sanctification, which he cannot receive until death. If this were so, then blessed are those who die in infancy, and thus outstrip their fellows in the Christian race. Vastly better to be born to die, than to be born to live in this uncertain world. What parent would not prefer to lay all his children in an early grave, assured of their salvation, rather than expose them to the dreadful risks of life and the possibility of eternal damnation?" (*Magazine of Christian Literature*, Dec., 1889. Article, *Redemption after Death*, pp. 112–114.)

Let me here answer a question which has been sent up to me: "Do you mean by 'Middle State' a condition of being between earth and heaven, or a condition of heavenly life between the death of the believer and the final judgment?"

I mean the latter.

I shall add the following from my *Defence* before the Presbytery:

"The doctrine of progressive sanctification after death raises many important and difficult questions with regard to the Middle State, which I am no more bound to answer than are others. I have stated my views so far as I see my way and no farther. I see that believers enter the Middle State imperfect, but they are cleansed by the blood of Christ from all sin, and are therefore sinless. They are justified by the grace of God, and are therefore guiltless; they are by the immediate influence of the divine Spirit raised to a higher and nobler life and more blessed experience of redemption. But so

soon as the redeemed soul begins its active practice, conduct, and service in the Middle State, the question presses itself upon us what that conduct, practice, and service will be. Will it be immediately after and forever perfectly holy, or will there still remain some degree of imperfection in their practice of true holiness? To those whose ideas of holiness are low, and measured only by innocence, holy intention, and resolution, or who think of human models of a holy life, it may not seem unnatural that believers should at once become alike perfect in holiness and that their practice of true holiness should be invariably free from imperfections of any kind. But to that man who considers how weak and imperfect the greatest saints and martyrs have been when they left this world; how far from perfection the best of our friends have been when they left us; and then compare them with the sublime ideals of perfect likeness to the pure and holy Jesus, entire likeness to God the Father in perfect conduct, it will seem incredible that the man who leaves this world so imperfect should in a moment of time leap to this perfection of practice. We need some very clear and express teaching in Holy Scripture to justify such a belief. And we have it not.

"It is to be feared that those who are thinking of immediate sanctification at death are not thinking of the sanctification set forth in Scripture; but of a merely negative sanctification, such as consists in the absence of positive sin. Sanctification embraces this as one of its elements certainly, but Christian sanctification is vastly more than this—it is the positive attainment of perfect practice. It is not only the non-commission of sin; it is not only the doing of holy deeds under favorable circumstances; it is not merely the accumulation of holy

strength, purpose, resolution, and character such as make it easy to resist sin; but it is vastly more than that—it is the attainment of the masterful experience and practice of Jesus Christ, so that the saint rises superior to every temptation or any possibility of temptation; and attains such a height of Christlikeness and Godlikeness that it will be absolutely impossible for him to commit sin, so to say, as impossible as for Christ to be stained with guilt or for God to commit iniquity, and in which the entire character, conduct, and practice are as perfectly holy as the character and conduct of God, pure as Christ is pure, perfect as God is perfect. Does any one suppose that such purity, such perfection, can be gained in the moment of death? Such a sanctification is the goal of that progressive sanctification that begins with regeneration in this life and is carried on until the resurrection and the judgment day.

"The doctrine that has been unfolded removes difficulties from many other doctrines. (*a*) It enables us first to understand the doctrine of the universal salvation of infants and incapables. It seems most probable that the God of all grace begins their redemption in this world by an act of regeneration, takes it up when they die at that point, and carries it on in the Middle State through all the subsequent steps of sanctification.

. . . . . .

"How can we think of such a mechanical act, such a magical change, as the transformation of a new-born heathen babe into the perfect likeness of Jesus Christ in the very moment of death? No passage of Holy Scripture teaches such a doctrine. (*b*) This doctrine of progressive sanctification after death also relieves the doctrine of the salvation of some of the heathen and of the heathen world. We can now see that those who have

been enlightened by the Logos and born again of the Holy Spirit, among any of the religions of the world, having the root of the matter in them, the vital tie of union with the Deity, enter the Middle State, where they enjoy all the training they need for their progressive sanctification. Israel was able to do his mediatorial work for the nations only imperfectly in this world. It seems probable that Israel has ever carried on that mediatorial work as the religious teacher of mankind, when the patriarchs and prophets, the sages and the singers received the pious heathen into the school of holiness that lay beyond the grave. And so it is with the ministry of the Church. The Church has only in part carried on its ministry in this world. Its greatest ministry has ever been in the Middle State, in training the departed babes and pious heathen in the holiness and blessedness of the heavenly state. As our Lord descended into Hades to preach the gospel there, so the ancient Church conceived the apostles and teachers as carrying on His work. There is an apostolic succession of ministry which is not confined to this earth, but embraces in its redemptive scope the realm of the living and the dead, as Christ is the king and judge of the living and the dead, and His Church is composed of the living and the dead.

"I believe that this doctrine of progressive sanctification after death is of great practical importance.

"(*a*) It fills up the Middle State for us with an attractive, industrious, holy life, a progress in grace, in knowledge, in holiness, and in all perfections. We realize that our departed friends are not asleep, but awake in the most active of lives. We see our babes growing in the divine life. We see our beloved in the companionship of prophets and apostles, of saints and martyrs, and

of the Holy Jesus. We know that they have not forgotten us, that they are praying for us, and are waiting to welcome us into the world of the redeemed. Death loses its terrors—and becomes only a gateway into a better country, into a brighter and purer life.

"(*b*) It incites to holy endeavor. The doctrine of immediate sanctification at death cuts the nerves of Christian endeavor and dries the sap of holy activity. What is the use, says the sluggish soul, in my striving so hard for holiness, when I shall receive it all in an instant whatever my life has been? All I need is pardon, to get into the kingdom at the eleventh hour. If I can only crawl through just at the moment the gate of death creaks on its hinges, I shall be as holy and as blessed as the greatest martyr and the most self-sacrificing of missionaries.

"No such doctrine was known to the martyr age of the Church. Those who hold such views are not the stuff martyrs are made of. There would have been no martyrs, there would have been no Church, if Christianity had built on such a foundation. Those who, with Paul and John, keep their eyes fixed upon the perfection of God, the likeness of Christ, and make it their one aim, their one hope, to attain that perfection and likeness at the resurrection and the advent—those will purify themselves in this world that they may enter the next world with as great an advancement as possible. For if there are grades of service and advancement here, there will be still greater differences of grade there; and the honors of heaven will be apportioned in accordance with the self-sacrificing ministry of earth. The holy deeds done in the body are the sacred necleus of the holy practice of the Middle State.

"The doctrine of progressive sanctification is in ac-

cordance with the laws that God has established in the ethical constitution of man. The conscience speaks the categorical imperative in the first dawn of the moral consciousness, and it pronounces its decision in the light of the training that men receive in their successive stages of advancement in morals.

"The Church and the Bible give their potent aid to the conscience in the ethical elevation of humanity. It is always, everywhere, and in every variety of form and education, a training. Shall all this ethical training cease at death, all the varied stages of progress in the different periods of life, of culture, of racial and national advancement, be reduced to a common level and made of none effect, by a mighty transformation that will deal with the race, father and child, mother and babe, master and scholar, self-sacrificing missionary and pagan convert, the devoted evangelist and the thief and murderer turning in his last hour to Christ from the shadow of the gallows—all as one undistinguishable mass? Such a doctrine strikes a deadly blow at the moral nature of man, the ethical constitution of society, the historic training of our race, and the moral government of God.

"The doctrine of progressive sanctification after death harmonizes Christian faith with Christian ethics, and both of these with the ethics of humanity and the ethics of God. It enables us to comprehend the whole life of man, the whole history of our race from its first creation until the day of doom, and all the acts of God in creation and providence, under one grand conception, the divine sanctification of man." (pp. 177–181.)

Mr. Moderator and brethren, I have endeavored to set forth before you, as clearly and as thoroughly as I could, what are my views on the subjects in dispute. I hold

these views sincerely and with all my heart. I maintain that they are the views that are set forth in Holy Scripture. The larger portion of them are set forth also in the Westminster Confession of Faith, and, as I know from a study of the Westminster divines for many years, would be regarded by them as very important matters of the Puritan faith of the seventeenth century. There are other matters in dispute which have arisen in the public mind since the times of the Westminster assembly, and have received no definition in our standards. Now you must judge upon these matters as judges in the presence of Jesus Christ, and before the living God, and under guidance of the Holy Spirit.

I challenge you, before God, that you judge righteous judgment. I challenge you, before God, that you judge me according to the record of the declarations that I have made. I challenge you, before Jesus Christ, that you do no wrong to the Church of the living God.

V.

THE SUSTAINING OF THE APPEAL, AND THE JUDGMENT OF THE GENERAL ASSEMBLY.

ALL of the 34 specifications under the five grounds of Appeal were carried by a *viva voce* vote except IV. 1 and 5, which charged prejudice against certain members of the Presbytery of New York, which were lost. IV. 6, which charged prejudice against directors, officers, and professors of the Union Theological Seminary, was carried by a majority of two votes—236 to 234. There was a count of votes on several other specifications as follows :

I. 1, 282 to 190; I. 2, 282 to 177.

I. 4, 238 to 195; I. 6, 250 to 185.

II. 1, 262 to 185.

It is evident that the Assembly voted with little discrimination and in the determination to sustain the Appeal at every cost to truth and right, and without regard to the unfortunate precedents which might be established by their votes. Some of the leaders endeavored to discriminate, but they could not restrain their followers in the final rush of the vote.

The vote was then taken on the Sustaining of the Appeal, when 298 voted to sustain, 85 to sustain in part, and 116 not to sustain.

A committee of fifteen was appointed to bring in an explanatory minute, as follows:

Ministers: Thomas A. Hoyt, D.D., H. W. Congdon, James H. Brooks, D.D., Calvin W. Stewart, D.D., W. W. Harsha, D.D., James J. Lucas, George D. Baker, D.D., E. P. Whallon, D.D., and Thomas D. Ewing, D.D.

Elders: John Randolph, Thomas McDougall, David Jacks, E. T. Green, James A. Curry, and E. D. Warfield.

This committee reported June 1st.

The Judgment upon Dr. Briggs.

Rev. Dr. HOYT: Mr. Moderator, the committee appointed to formulate the judgment of the Assembly is now ready to report. Before that report is presented, however, I wish to ask Dr. Baker (a member of a subcommittee sent by this committee to interview Dr. Briggs), to relate the result of that interview, which was undertaken by the committee in a kind spirit of conciliation.

Dr. BAKER: Mr. Moderator, when your committee convened this morning under your direction, it was impressed with a sense of responsibility which seldom falls to the lot of men to bear. We felt that the very first thing to do in all Christian courtesy and love was to send a committee to Dr. Briggs and give him an opportunity to say whatever he might be pleased to say in view of the distressing circumstances. There was a prayer in our hearts that Dr. Briggs might be led of God to say something which would relieve the painful situation. I regret to say, Mr. Moderator, that our hope in this regard was disappointed. Our interview was frank,

kind, and cordial to the last degree; but Dr. Briggs insisted strenuously, positively, irrevocably, upon everything that he had said in the defence which he made when brought to the bar of this court. At my request he gave into my hands this statement in his own handwriting, and bearing his own signature, which I will read:

"In accordance with your request, I hereby state that your committee called upon me to ask me if I had anything to say to them respecting the disposition of the case. I thereupon said that I adhered to all the positions taken before the General Assembly, and had nothing further to say; save that the appellee reserves all rights, and that the General Assembly should take the exclusive responsibility for any further action."

When I interrogated him particularly with reference to the declaration he made to this court that he should continue under all circumstances to teach, so long as he lived, the doctrines to answer for which he was brought to the bar of this court, he replied that he had only to reiterate that declaration; that whatsoever might be the disposition of this case, whatsoever action we might take this afternoon with reference to it, he should still teach, as he has done heretofore, these doctrines, which he sincerely believes. It was in view of this declaration, Mr. Moderator, that your committee took the action which is now to be reported by the chairman.

Dr. HOYT: With your permission, Mr. Moderator, I will now read the judgment which it is recommended by your committee be taken by this Assembly in that case:

General Assembly of the Presbyterian Church in the United States of America, in session at Washington, D. C., June 1, 1893.

PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, *Appellant*,	On Appeal from the final judgment of the Presbytery of New York.
vs.	
REV. CHAS. A. BRIGGS, D.D., *Appellee.*	

This appeal being regularly issued and coming on to be heard on the judgment, the notice of appeal, the appeal, and the specifications of errors alleged, and the record in the case from the beginning, and the reading of said record having been omitted by consent, and the parties hereto having been heard before the judicatory in argument, and the opportunity having been given to the members of the judicatory appealed from to be heard, and they having been heard, and opportunity having been given to the members of this judicatory to be heard, and they having been heard, as provided by the Book of Discipline, and the General Assembly as a judicatory sitting in said cause on appeal having sustained the following specifications of error, to wit:

All of said specifications of errors set forth in said five grounds of appeal, save and except the first and fifth under the fourth ground of appeal, on consideration whereof this judicatory finds said appeal should be and is hereby sustained, and that said Presbytery of New York, the judicatory appealed from, erred in striking out said amended charges four and seven, and erred in not sustaining on the law and the evidence said amended charges one, two, three, five, six and eight; on consider-

ation whereof this judicatory finds that said final judgment of the Presbytery of New York is erroneous and should be and is hereby reversed; and this General Assembly sitting as a judicatory in said cause coming now to enter judgment on said amended charges, one, two, three, five, six and eight, finds the appellee, the said Chas. A. Briggs, has uttered, taught and propagated views, doctrines and teachings as set forth in said charges contrary to the essential doctrine of Holy Scripture and the Standards of said Presbyterian Church in the United States of America, and in violation of the ordination vow of said appellee, which said erroneous teachings, views and doctrines strike at the vitals of religion and have been industriously spread; wherefore, this General Assembly of the Presbyterian Church in the United States of America, sitting as a judicatory in this cause on appeal does hereby suspend Chas. A. Briggs, the said appellee, from the office of a minister in the Presbyterian Church in the United States of America, until such time as he shall give satisfactory evidence of repentance to the General Assembly of the Presbyterian Church in the United States of America, for the violation by him of the said ordination vow as herein and heretofore found.

And it is ordered that the Stated Clerk of this General Assembly transmit a certified copy of this judgment to the Presbytery of New York to be made a part of the record in this case.

It was also ordered that a copy be furnished to the appellee, the Rev. Chas. A. Briggs, D.D.

Doctrinal Statements.

Rev. Dr. HOYT: Mr. Moderator, in addition to this report of judgment, there were also formulated by us

in obedience to your commands, doctrinal statements bearing upon the issues which have been pending here, and with your permission I will ask that Rev. Dr. Harsha, the chairman of the sub-committee, read that paper.

Rev. Dr. HARSHA: The report, Mr. Moderator, of this sub-committee, is a very brief one. We did not deem it advisable to go into large details on the doctrinal points raised in this appeal.

"Your committee, to whom was intrusted the duty of formulating a deliverance of this Assembly on the doctrinal points involved in the appeal of the committee of prosecution from the decision of the presbytery of New York in the case of Charles A. Briggs, D.D., reports as follows:

"*First.* We find that the doctrine of the errancy of Scripture as it came from them to whom and through whom God originally communicated his revelation, is in conflict with the statements of the Holy Scripture itself, which asserts that all Scripture or every Scripture is given by the inspiration of God (II. Timothy iii. 16); that the prophecy came not of old by the will of man, but that holy men of God spake as they were moved by the Holy Ghost (II. Peter i. 21); and also with the statements of the standards of the Church which assert that the Holy Scriptures of the Old and New Testaments are the Word of God (Larger Catechism, question 3), of infallible truth and divine authority (Confession, chapter I., section 5).

"*Second.* We find in this case involved the question of the sufficiency of the human reason and of the Church, as authorized guides in the matter of salvation. Your committee recommends that this General Assembly declare that the Reason and the Church are not to be regarded as fountains of divine authority; that they are

unreliable and variable, and whilst they may be and no doubt are channels or media through which the Holy Spirit may reach and influence for good the human soul, they are not to be relied upon as sufficient in themselves and aside from Holy Scripture, to lead the soul to a saving knowledge of God. To teach otherwise is most dangerous, and contrary to the Word of God and our Standards, and our ministers and churches are solemnly warned against them.

"*Third.* We find involved in this case a speculation in regard to the process of the soul's sanctification after death which in the judgment of this Assembly is a dangerous hypothesis, in direct conflict with the plain teachings of the Divine Word and the utterances of the standards of our church. Those standards distinctly declare that the souls of believers are at their death made perfect in righteousness and do immediately pass into glory, whilst their bodies, being still united to Christ, do rest in their graves till the resurrection. (Shorter Catechism, question 37; II. Corinthians v. 3; Philippians i. 23, and John xvii. 24.)"

The Protest.

The following is the Protest presented by Dr. Sprague, of Auburn, in regard to the sentence against Dr. Briggs:

"We, the undersigned, ministers and elders in the Presbyterian Church in the United States of America, declaring our hearty belief in, and love for, the Holy Scriptures of the Old and New Testaments and our entire loyalty to the principles of the Presbyterian Church, desire respectfully to record our solemn protest against the verdict of suspension, and the proceedings leading to the verdict, in the case against the Rev. Charles A. Briggs, D.D., in the General Assembly of 1893.

"*First.* As involving, in our judgment, acts of doubtful constitutionality.

"*Second.* As seeming to abridge the liberty of opinion hitherto enjoyed under our standards by office-bearers in the Church.

"*Third.* As tending, we believe, to the discouragement of the thorough study of the Bible and reverent advance in apprehension of divine truth; and

"*Fourth.* As inflicting what we cannot but feel is an injustice on a Christian scholar of acknowledged high character and learning, as well as on the Presbytery of New York, which has fully acquitted him of the charges alleged against him."

This Protest was signed by sixty-three ministers and elders, commissioners of the General Assembly, who voted in the minority.